

**FAIRFAX COUNTY  
BOARD OF SUPERVISORS  
July 10, 2018**

**AGENDA**

9:00	<b>Done</b>	Presentations
9:30	<b>Done</b>	Items Presented by the County Executive

**ADMINISTRATIVE  
ITEMS**

1	<b>Approved</b>	Authorization for the Fairfax-Falls Church Community Services Board to Apply for and Accept Funding SAMHSA Community Programs for Outreach and Intervention with Youth and Young Adults at Clinical High Risk for Psychosis Grant Program (Short Title: CHR-P)
2	<b>Approved</b>	Authorization to Advertise a Public Hearing to Adopt an Amendment to the Code of the County of Fairfax, Virginia, Section 62-3-1, Junior Firefighters
3	<b>Approved</b>	Streets into the Secondary System (Springfield District)
4	<b>Approved</b>	Extension of Review Period for 2232 Applications (Dranesville and Lee Districts)
5	<b>Approved</b>	Authorization for the Office of Strategy Management for Health and Human Services to Apply for and Accept Funding from the Department of Justice, Office of Justice Programs, Bureau of Justice Assistance for Information Sharing Partnerships Within the Comprehensive Opioid Abuse Site-Based Grant Program
6	<b>Approved</b>	Authorization for the Department of Family Services to Apply for and Accept Grant Funding from the Department of Health and Human Services for Supplemental Funding Associated with the Head Start/Early Head Start and Early Head Start Child Care Partnership and Expansion Grants
7	<b>Approved</b>	Appointment of Private Provider and Parent Representatives to the Fairfax-Falls Church Community Policy and Management Team (CPMT)

**ACTION ITEMS**

1	<b>Approved</b>	Approval of Head Start/Early Head Start Policy Council Bylaws and Self-Assessment Report
2	<b>Approved</b>	Adoption of a Resolution Approving the Issuance of Industrial Development Authority Health Care Revenue Bonds (Inova Health System Project) Series 2018 Bond Issue

**FAIRFAX COUNTY  
BOARD OF SUPERVISORS  
July 10, 2018**

**ACTION ITEMS  
(Continued)**

3	<b>Approved</b>	Approval of a Memorandum of Understanding Between Fairfax County and the Fairfax-Falls Church Community Services Board Establishing Collaboration Between the Metropolitan Washington Airports Authority and Law Enforcement Agencies at the Merrifield Crisis Response Center for People Experiencing a Psychological Crisis
4	<b>Approved</b>	Approval of a Draft Board of Supervisors' Meeting Schedule for Calendar Year 2019
5	<b>Approved</b>	Approval of Funding for, and Authorization to Amend an Agreement with the Virginia Department of Transportation for Expedited Review of Locally Funded Transportation Projects
6	<b>Approved</b>	Approval of a Resolution Endorsing Projects Being Submitted for: State Funding Through the Commonwealth Transportation Board's FY2020-25 Smart Scale Program; and the United States Department of Transportation's Better Utilizing Investments to Leverage Development FY2018 Discretionary Grant Program
7	<b>Approved</b>	Endorsement of Design Plans for the Wiehle Avenue at Washington and Old Dominion (W&OD) Trail Pedestrian Bridge Project (Hunter Mill District)
8	<b>Approved</b>	Approval of the 2018 Zoning Ordinance Amendment Work Program
9	<b>Approved</b>	Approval of Fairfax Connector July 2018 Service Changes
10	<b>Approved</b>	Adoption of a Resolution of Support for Interchange Modification Report (IMR) for Route 267 (Dulles Airport Access Road) and Route 123 (Dolley Madison Boulevard) (Providence District)
11	<b>Approved</b>	Adoption of a Resolution Approving the Issuance of Revenue Funding Bonds by the Economic Development Authority for the National Wildlife Federation (Hunter Mill District)
12	<b>Approved</b>	Adoption of the Fairfax County Operational Energy Strategy
10:30	<b>Done</b>	Matters Presented by Board Members
11:00	<b>Done</b>	Closed Session

**FAIRFAX COUNTY  
BOARD OF SUPERVISORS  
July 10, 2018**

**PUBLIC  
HEARINGS**

3:30	<b>Approved</b>	Public Hearing on PCA 1996-LE-047 (HD Development of Maryland, Inc.) (Lee District)
3:30	<b>Approved</b>	Public Hearing on PCA 91-Y-006 (Trustees of Pender United Methodist Church) (Sully District)
3:30	<b>Approved</b>	Public Hearing on SE 2018-SU-001 (Trustees of Pender United Methodist Church) (Sully District)
3:30	<b>Approved</b>	Public Hearing on PCA/CDPA 2017-DR-014 (Stanley Martin Companies, LLC) (Dranesville District)
4:00	<b>Approved</b>	Public Hearing on Amendments to Articles 2 and 3 of Chapter 3 of the Code of the County of Fairfax Re: Employees' and Uniformed Retirement Systems – Elimination of the Social Security Offset to Service-Connected Disability Benefits
4:00	<b>Approved</b>	Public Hearing to Consider Adopting an Ordinance Expanding the Herndon Residential Permit Parking District, District 26 (Dranesville District)
4:00	<b>Public hearing deferred to 9/25/18 at 5:00 p.m.</b>	Public Hearing on SEA 99-P-046-02 (Flint Hill School) (Providence District)
4:00	<b>Public hearing deferred to 9/25/18 at 5:00 p.m.</b>	Public Hearing on SEA 84-P-105-04 (Flint Hill School) (Providence District)
4:30	<b>Approved</b>	Public Hearing on RZ 2017-MA-013 (Vulcan Materials Company, LLC) (Mason District)
4:30	<b>Approved</b>	Public Hearing on SE 2017-MA-009 (Vulcan Materials Company, LLC) (Mason District)
4:30	<b>Decision only deferred to 7/31/19 at 3:00 p.m.</b>	Public Hearing on a Proposed Zoning Ordinance Amendment Re: Short-Term Lodging Uses (Residential Owner/Renter Operated Dwelling Only) and a Proposed Amendment to Chapter 4 of the Fairfax County Code

# **REVISED**



## ***Fairfax County, Virginia*** ***BOARD OF SUPERVISORS*** ***AGENDA***

**Tuesday**  
**July 10, 2018**

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9 a.m.

### **PRESENTATIONS**

- CERTIFICATE – To recognize the Springfield Youth Club West End Girls Rugby team for winning the girl's Rugby Virginia High School Division I State Championship. Requested by Supervisor Herrity.
- RESOLUTION – To recognize the Army of Love for its commitment to community service and Patty Friedman for her years of service. Requested by Supervisors Cook and Herrity.
- RESOLUTION – To support the Healthy Minds Fairfax Give an Hour initiative to build capacity to offer mental health services for pro bono therapy to children. Requested by Supervisor Gross.
- PROCLAMATION – To designate July 2018 as Parks and Recreation Month in Fairfax County. Requested by Chairman Bulova.

#### **STAFF:**

Tony Castrilli, Director, Office of Public Affairs  
Bill Miller, Office of Public Affairs  
Lisa Connors, Office of Public Affairs



Board Agenda Item  
July 10, 2018

9:30 a.m.

Items Presented by the County Executive

ADMINISTRATIVE – 1

Authorization for the Fairfax-Falls Church Community Services Board to Apply for and Accept Funding SAMHSA Community Programs for Outreach and Intervention with Youth and Young Adults at Clinical High Risk for Psychosis Grant Program (Short Title: CHR-P)

ISSUE:

Board authorization for the Fairfax-Falls Church Community Services Board (CSB) to apply for and accept grant funding, if received, from the Substance Abuse and Mental Health Services Administration (SAMHSA) in the amount of \$400,000 per year for four years to support services for youth and young adults at clinical high risk for psychosis. Funding will support 3/2.5 FTE new grant positions to provide evidence-based interventions to prevent the onset of psychosis or lessen the severity of psychotic disorder. The grant period is September 30, 2018 to September 29, 2021. The total required non-federal match of 20 percent will be met with in-kind resources. If the actual award received is significantly different from the application amount, another item will be submitted to the Board requesting appropriation of grant funds. Otherwise, staff will process the award administratively per Board policy. Board authorization is also requested for the Chairman of the Board of Supervisors, the County Executive and/or a designee appointed by the County Executive to enter into the grant agreement and any related agreements, including but not limited to Federal Subaward Agreements, on behalf of the County.

RECOMMENDATION:

The County Executive recommends that the Board authorize the CSB to apply for and accept funding, if received, from the Substance Abuse and Mental Health Services Administration. Federal funding of \$400,000 per year for four years will support 3/2.5 FTE new grant positions as well as evaluation and data management. The total required non-federal match of 20 percent will be met with in-kind resources. The County Executive also recommends the Board authorize the Chairman of the Board of Supervisors, the County Executive and/or a designee appointed by the County Executive to enter into the grant agreement and any related agreements, including but not limited to Federal Subaward Agreements, on behalf of the County.

TIMING:

Board action is requested on July 10, 2018. Due to the grant application deadline of June 11, 2018, the application was submitted pending Board approval. This Board item is being presented at the earliest subsequent Board meeting. If the Board does not approve this request, the application will be immediately withdrawn. The Board of Supervisors was also notified via memo on May 24, 2018 of the CSB's intent to apply for this grant prior to the application due date. This grant application was approved by the Fairfax Falls-Church CSB Board on May 23, 2018.

BACKGROUND:

SAMHSA announced the availability of grants to expand services to youth and young adults who are clinically high risk for psychosis and issued a Request for Proposal (RFP) in April of 2018. This project will identify youth and young adults, not more than 25 years old, at clinical high risk for psychosis and provide evidence-based interventions to prevent the onset of psychosis or lessen the severity of psychotic disorder, with expectations that the program will: (1) improve symptomatic and behavioral functioning; (2) enable youth and young adults to resume age-appropriate social, academic, and/or vocational activities; (3) delay or prevent the onset of psychosis; and (4) minimize the duration of untreated psychosis for those who develop psychotic symptoms.

This program will be integrated with the current Turning Point Coordinated Specialty Care program. There were over 200 young people turned away from Turning Point in the past two years, due to not meeting the strict entrance criteria of that program, that would benefit from a CHR-P program. The integration of services presents the opportunity to provide stepped care, starting with least intensive evidence-based treatment and offer evidence-based treatment of higher intensity, as clinically indicated. Funding will support 1/1.0 FTE Clinical Coordinator, 2/1.5 FTE Behavioral Health II positions. Funds will also be used for training, evaluation, and program consultation.

FISCAL IMPACT:

Grant funding in the amount of \$400,000 per year for up to four years is being requested from the Substance Abuse and Mental Health Services Administration. The total required non-federal match of 20 percent will be met with in-kind resources. Specifically, years one, two, and three requires at least \$1 for each \$3 of federal funds provided and year 4 requires \$1 for each \$1 of federal funds provided. This grant does allow for the recovery of indirect costs; however, because of the highly competitive nature of the award, the Fairfax-Falls Church Community Services Board did not include indirect costs as part of the application. This action does not increase the expenditure level in the Federal-State Grant Fund, as funds are held in reserve for unanticipated grant awards.

CREATION OF NEW POSITIONS:

There are 3/2.5 FTE new grant positions associated with this award. The County is under no obligation to continue funding this position when the grant funding expires.

ENCLOSED DOCUMENTS:

Attachment 1: Summary of Grant Proposal

STAFF:

Tisha Deeghan, Deputy County Executive  
Daryl Washington, Executive Director, Fairfax-Falls Church CSB  
Lori Bell, Mental Health Manager, Fairfax-Falls Church CSB

**Community Programs for Outreach and Intervention with Youth and Young Adults  
at Clinical High Risk for Psychosis (CHR-P)  
Summary of Grant Proposal**

<b>Grant Title:</b>	Starting Point: Community Programs for Outreach and Intervention with Youth and Young Adults at Clinical High Risk for Psychosis
<b>Funding Agency:</b>	Substance Abuse and Mental Health Services Administration
<b>Applicant:</b>	Fairfax-Falls Church Community Services Board (CSB)
<b>Funding Amount:</b>	Federal funding of \$400,000 per year for four years. The total required non-federal match of 20 percent will be met with in-kind resources. Specifically, years one, two, and three requires at least \$1 for each \$3 of federal funds provided and year 4 requires \$1 for each \$1 of federal funds provided.
<b>Proposed Use of Funds:</b>	This grant will fund 3/2.5 FTE new grant positions to provide evidence-based interventions to prevent the onset of psychosis or lessen the severity of psychotic disorder as well as evaluation and data management.
<b>Performance Measures:</b>	<ol style="list-style-type: none"> <li>1. Develop Starting Point program, designed to support young people at risk of first episode psychosis, in alignment with the current Turning Point program, designed to support young people who have experienced first episode psychosis, that improves symptomatic and behavioral functioning;</li> <li>2. Enable youth and young adult participants to resume age-appropriate social, academic, and/or vocational activities;</li> <li>3. Delay or prevent the onset of psychosis and minimize the duration of untreated psychosis for those who develop psychotic symptoms;</li> <li>4. Develop a data collection and monitoring system, aligned with SAMHSA requirements, that demonstrates effectiveness of programming; and</li> <li>5. Develop policies and practices to support this effort and help sustain change after the funding period ends.</li> </ol>
<b>Grant Period:</b>	September 30, 2018 to September 29, 2021

ADMINISTRATIVE - 2

Authorization to Advertise a Public Hearing to Adopt an Amendment to the Code of the County of Fairfax, Virginia, Section 62-3-1, Junior Firefighters

ISSUE:

Authorization to advertise a public hearing on a proposed amendment to Section 62-3-1, to limit the activities in which junior firefighters may engage as members of a volunteer fire company to non-hazardous activities.

RECOMMENDATION:

The County Executive recommends that the Board authorize advertisement of a public hearing for September 25, 2018, at 4:30 p.m. to consider adoption of an amendment to the Code of the County of Fairfax, Virginia, Section 62-3-1 (Attachment 1) that would limit the activities in which junior firefighters may engage as members of a volunteer fire company to non-hazardous activities.

TIMING:

The Board action is requested on July 10, 2018, to provide sufficient time to advertise the proposed public hearing on September 25, 2018, at 4:30 p.m.

BACKGROUND:

Section 62-3-1, authorizes 16 and 17 year olds residing in the County of Fairfax, the City of Fairfax, or the towns of Vienna, Herndon, or Clifton, who are members of a Fairfax County volunteer fire company, to seek certification under National Fire Protection Association 1001, level one, firefighter standards, as administered by the Department of Fire Programs, and to work with or participate in activities of the volunteer fire company.

Enabling legislation that authorizes the County to allow 16 and 17 year olds to seek training, work with, and participate in activities of volunteer fire companies is found in Va. Code Ann. § 40.1-79.1. To ensure consistency with Va. Code Ann. § 40.1-79.1, which was amended, effective July 1, 2018, Section 62-3-1 must be amended to limit the activities in which junior firefighters may engage to non-hazardous activities.

FISCAL IMPACT:

None

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ENCLOSED DOCUMENTS:

Attachment 1 – Proposed amendment to Fairfax County Code Section 62-3-1.

STAFF:

David M. Rohrer, Deputy County Executive  
John J. Caussin, Jr., Acting Fire Chief  
Laurie Stone, Strategic Planner, Fire and Rescue Department

ASSIGNED COUNSEL:

Jamie Greenzweig, Assistant County Attorney

## Attachment 1

### **Section 62-3-1. - Junior firefighters**

Any person residing in the County of Fairfax, the City of Fairfax, or the towns of Vienna, Herndon and Clifton, aged 16 years or older, who is a member of a Fairfax County volunteer fire company, with parental or guardian approval, is authorized to (i) seek certification under National Fire Protection Association 1001, level one, firefighter standards, as administered by the Department of Fire Programs; and (ii) work with or participate in fully in all non-hazardous activities of such volunteer fire company, provided such person has attained certification under National Fire Protection Association 1001, level one, firefighter standards, as administered by the Department of Fire Programs, subject to the following conditions:

- 1) Evidence of residency in the Commonwealth shall be provided by the junior firefighter.
- 2) The junior firefighter shall present an original letter by a parent or legal guardian that permits junior firefighter participation.
- 3) The junior firefighter shall provide an original consent form signed by a parent or legal guardian allowing participation in Virginia Department of Fire Programs training courses.
- 4) The junior firefighter shall be provided with a copy of the County's liability insurance coverage applicable to junior firefighters. (11-16-62.)

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ADMINISTRATIVE – 3

Streets into the Secondary System (Springfield District)

ISSUE:

Board approval of streets to be accepted into the State Secondary System.

RECOMMENDATION:

The County Executive recommends that the street(s) listed below be added to the State Secondary System.

<u>Subdivision</u>	<u>District</u>	<u>Street</u>
Denali Way	Springfield	Alexandria Nicole Drive John Sutherland Lane

TIMING:

Routine

BACKGROUND:

Inspection has been made of these streets, and they are recommended for acceptance into the State Secondary System.

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment 1 – Street Acceptance Form

STAFF:

Robert A. Stalzer, Deputy County Executive  
William D. Hicks, P.E., Director, Land Development Services



## Street Acceptance Form For Board Of Supervisors Resolution - June 2005

<b>FAIRFAX COUNTY BOARD OF SUPERVISORS FAIRFAX, VA</b>  <b>Pursuant to the request to inspect certain streets in the subdivisions as described, the Virginia Department of Transportation has made inspections, and recommends that same be included in the secondary system.</b>		<b>VIRGINIA DEPARTMENT OF TRANSPORTATION - OFFICE OF THE ENGINEERING MANAGER, FAIRFAX, VIRGINIA</b>  REQUEST TO THE ENGINEERING MANAGER, FOR INCLUSION OF CERTAIN SUBDIVISION STREETS INTO THE STATE OF VIRGINIA SECONDARY ROAD SYSTEM.  <b>PLAN NUMBER:</b> 0479-SD-001 <b>SUBDIVISION PLAT NAME:</b> Denali Way <b>COUNTY MAGISTERIAL DISTRICT:</b> Springfield	
<b>ENGINEERING MANAGER:</b> Houda A. Ali, PMP <b>BY:</b> <u>Nadia Alphonse</u>		<b>FOR OFFICIAL USE ONLY</b>  <b>DATE OF VDOT INSPECTION APPROVAL:</b> <u>05/10/2018</u>	

STREET NAME	LOCATION		LENGTH MILE
	FROM	TO	
Alexandra Nicole Drive	Existing Alexandra Nicole Drive (Route 10556) - 262' N CL Peniwill Drive (Route 10335)	1,703' NW to End of Cul-de-Sac	0.32
John Sutherland Lane	CL Alexandra Nicole Drive	1,324' N to end of Cul-de-Sac	0.25
<b>NOTES:</b>			<b>TOTALS:</b> 0.57

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ADMINISTRATIVE – 4

Extension of Review Period for 2232 Applications (Dranesville and Lee Districts)

ISSUE:

Extension of review period for 2232 applications to ensure compliance with review requirements of *Section 15.2-2232* of the *Code of Virginia*.

RECOMMENDATION:

The County Executive recommends that the Board extend the review period for the following applications: 2232A-D99-1-2, FS-D18-2, and 2232-L18-5.

TIMING:

Board action is required on July 10, 2018, to extend the review period of the applications noted above before their expiration date.

BACKGROUND:

Subsection B of *Section 15.2-2232* of the *Code of Virginia* states: "Failure of the commission to act within 60 days of a submission, unless the time is extended by the governing body, shall be deemed approval." Subsection F of *Section 15.2-2232* of the *Code of Virginia* states: "Failure of the commission to act on any such application for a telecommunications facility under subsection A submitted on or after July 1, 1998, within 90 days of such submission shall be deemed approval of the application by the commission unless the governing body has authorized an extension of time for consideration or the applicant has agreed to an extension of time. The governing body may extend the time required for action by the local commission by no more than 60 additional days. If the commission has not acted on the application by the end of the extension, or by the end of such longer period as may be agreed to by the applicant, the application is deemed approved by the commission." The need for the full time of an extension may not be necessary, and is not intended to set a date for final action.

The review period for the following applications should be extended:

2232A-D99-1-2	Fairfax County Park Authority Turner Farm Park 925 Springvale Road Great Falls, VA Dranesville District Accepted May 13, 2018 Extend to April 13, 2019
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FS-D18-2            Fairfax County Public Schools  
Cooper Middle School  
977 Balls Hill Road  
McLean, VA  
Dranesville District  
Accepted May 25, 2018  
Extend to April 25, 2019

2232-L18-5        T-Mobile  
7740 Richmond Highway  
Alexandria, VA  
Lee District  
Accepted April 26, 2018  
Extend to September 23, 2018

FISCAL IMPACT:  
None.

ENCLOSED DOCUMENTS:  
None.

STAFF:  
Robert A. Stalzer, Deputy County Executive  
Fred R. Selden, Director, Department of Planning and Zoning, DPZ  
Michelle K. Stahlhut, Chief, Facilities Planning Branch, Planning Division, DPZ  
Douglas W. Hansen, Senior Planner, Facilities Planning Branch, Planning Division, DPZ

ADMINISTRATIVE – 5

Authorization for the Office of Strategy Management for Health and Human Services to Apply for and Accept Funding from the Department of Justice, Office of Justice Programs, Bureau of Justice Assistance for Information Sharing Partnerships within the Comprehensive Opioid Abuse Site-based Grant Program

ISSUE:

Board authorization for the Office of Strategy Management for Health and Human Services to apply for and accept grant funding, if received, from the Department of Justice, Office of Justice Programs, Bureau of Justice Assistance in the amount of \$997,889 for an information-sharing partnership that will support the County's Opioid Task Force goals. Funding will support a 1/1.0 FTE new grant position to act as the Program Manager to facilitate collaboration among behavioral health, human services, state Prescription Drug Monitoring Programs (PDMP), and justice professionals to support informed decision making and improved outcomes for individuals struggling with opioid addiction. The County will also partner with George Mason University and the IJIS Institute. The grant period is October 1, 2018 to September 30, 2021. No Local Cash Match is required. If the actual award received is significantly different from the application amount, another item will be submitted to the Board requesting appropriation of grant funds. Otherwise, staff will process the award administratively per Board policy. Board authorization is also requested for the Chairman of the Board of Supervisors, the County Executive and/or a designee appointed by the County Executive to enter into the grant agreement and any related agreements, including but not limited to Federal Subaward Agreements, on behalf of the County.

RECOMMENDATION:

The County Executive recommends that the Board authorize the Office of Strategy Management for Health and Human Services to apply for and accept funding, if received, from the Department of Justice, Office of Justice Programs, Bureau of Justice Assistance. Federal funding of \$997,889 over three years will support a 1/1.0 FTE new grant position as well as two key partnerships with George Mason University and the IJIS Institute. No Local Cash Match is required. The County Executive also recommends the Board authorize the Chairman of the Board of Supervisors, the County Executive and/or a designee appointed by the County Executive to enter into the grant agreement and any related agreements, including but not limited to Federal Subaward Agreements, on behalf of the County.

TIMING:

Board action is requested on July 10, 2018. Due to the grant application deadline of June 18, 2018, the application was submitted pending Board approval. This Board item

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is being presented at the earliest subsequent Board meeting. If the Board does not approve this request, the application will be immediately withdrawn. The Board of Supervisors was also notified via memo on May 24, 2018 of the intent to apply for this grant prior to the application due date.

BACKGROUND:

On May 8, 2018, the Bureau of Justice Assistance announced funding availability to support a variety of projects related to the prevention, intervention, and treatment of opioid addiction as well as reduce overdose deaths. The funding available in Category 6 (<https://www.bja.gov/funding/COAP18.pdf>) supports public safety, behavioral health, and public health cross-system data-sharing. Funding will support partnerships with George Mason University and the IJIS Institute as well as 1/1.0 FTE new Project Manager grant position. This project will focus on the development of a governance model and policy development to establish cross-system data sharing protocols. The project will include evaluation and data management related to the county's opioid response that will ultimately inform larger system data sharing needs.

FISCAL IMPACT:

Grant funding in the amount of \$997,889 over three years is being requested from the Department of Justice, Office of Justice Programs, Bureau of Justice Assistance. No Local Cash Match is required. This grant does allow for the recovery of indirect costs; however, because of the highly competitive nature of the award, the Office of Strategy Management for Health and Human Services did not include indirect costs as part of the application. This action does not increase the expenditure level in the Federal-State Grant Fund, as funds are held in reserve for unanticipated grant awards.

CREATION OF NEW POSITIONS:

There is 1/1.0 FTE new grant position associated with this award. The County is under no obligation to continue funding this position when the grant funding expires.

ENCLOSED DOCUMENTS:

Attachment 1: Summary of Grant Proposal

STAFF:

Tisha Deeghan, Deputy County Executive for Health and Human Services  
G. Michael Lane, Director, Office of Strategy Management for Health and Human Services  
Laura Yager, Director, Systems Transformation, Office of the County Executive

**Bureau of Justice Assistance Comprehensive Opioid Abuse Site-based Program  
Summary of Grant Proposal**

**Grant Title:** Information Sharing Partnerships within the Comprehensive Opioid Abuse Site-based Grant Program

**Funding Agency:** U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance

**Applicant:** Office of Strategy Management for Health and Human Services (Partners include the IJIS Institute and George Mason University)

**Funding Amount:** Federal funding of \$997,889 over 36 months.

**Proposed Use of Funds:** The Fairfax County Secure Integrated Data approach will enable collaboration among behavioral health, human services, state Prescription Drug Monitoring Programs (PDMP), and justice professionals to support informed decision making and improved outcomes for individuals needing help from our agencies for treatment, enhancing opportunities for recovery. The proposed approach will support creating teams of service professionals, working together and sharing data, to support the recovery and resiliency of the individual.

This project will ensure engagement from representatives of the Fairfax County health and human service community, public safety, education, legal, and technology representatives of the organizations involved and state PDMP representation, and community service providers to adopt and promote the information sharing efforts. The team will develop data governance structures to support the policy for data sharing and then develop a data sharing model by using global information sharing standards to share data across various case management systems. The successful implementation of data sharing between local corrections, law enforcement agencies, and community service providers will be demonstrated through action research and evaluation.

The geographic area of the project is Fairfax County, but the model and documentation created will aid in replication of this successful model across the country. Fairfax County has partnered with the IJIS Institute and George Mason University for this effort.

**Performance Measures:**

- 1- Establishment of a Data Governance Board to provide advice and guidance on data sharing practices, policies and technology and a Management Analyst II to manage this effort.
- 2- Development of a universal Memorandum of Understanding data sharing partners to ensure all legal and regulatory rules are met.

## **Attachment 1**

- 3- Develop an opioid abuse data sharing framework.
- 4- Implement the data framework to automate sharing related to opioid abuse.
- 5- Conduct research and evaluation.
- 6- Document lessons learned and best practices for continued use in Fairfax County and for replication in the region and in other parts of the country.

**Grant Period:** October 1, 2018 – September 30, 2021

ADMINISTRATIVE - 6

Authorization for the Department of Family Services to Apply for and Accept Grant Funding from the Department of Health and Human Services for Supplemental Funding Associated with the Head Start/Early Head Start and Early Head Start Child Care Partnership and Expansion Grants

ISSUE:

Board of Supervisors authorization is requested for the Department of Family Services to apply for and accept grant funding, if received, from the Department of Health and Human Services, Administration for Children and Families, Office of Head Start in the amount of \$317,971, including \$63,595 in Local Cash Match. Funding is specifically being provided by the grantor to support a cost of living adjustment of 2.6 percent and to offset higher operating costs for the Head Start, Early Head Start, and Early Head Start Child Care Partnership and Expansion grants. The grant period is July 1, 2018 to June 30, 2019. The total required non-federal resources will be met through Local Cash Match. The table below details funding for each grant:

<b>Grant</b>	<b>Federal Funding</b>	<b>Local Cash Match</b>	<b>Total Application</b>
Head Start	\$114,079	\$28,520	\$142,599
Early Head Start	\$119,791	\$29,948	\$149,739
Early Head Start Child Care Partnership/Expansion	\$20,506	\$5,127	\$25,633
<b>Total</b>	<b>\$254,376</b>	<b>\$63,595</b>	<b>\$317,971</b>

If the actual award received is significantly different from the application amount, another item will be submitted to the Board requesting appropriation of grant funds. Otherwise, staff will process the award administratively as per Board policy. Board authorization is also requested for the Chairman of the Board of Supervisors, the County Executive and/or a designee appointed by the County Executive to enter into the grant agreement and any related agreements, including but not limited to Federal Subaward Agreements, on behalf of the County.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors authorize the Department of Family Services to apply for and accept grant funding, if received, from the Department of Health and Human Services, Administration for Children and Families, Office of Head Start in the amount of \$317,971, including \$63,595 in Local



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Cash Match. Funding is specifically being provided to support a cost of living adjustment for the Head Start, Early Head Start, and Early Head Start Child Care Partnership and Expansion grants. Grant funding currently supports 68/62.3 FTE grant positions. No new grant positions are being requested with this funding. The County Executive also recommends the Board authorize the Chairman of the Board of Supervisors, the County Executive and/or a designee appointed by the County Executive to enter into the grant agreement and any related agreements, including but not limited to Federal Subaward Agreements, on behalf of the County.

TIMING:

Board action is requested on July 10, 2018. The applications associated with the Early Head Start Child Care Partnership and Expansion grant and the Head Start and Early Head Start grants were due on June 18, 2018. The Department of Family Services submitted the applications in accordance with Board policy for supplemental awards. However, the grantor has indicated that before funding is awarded, the Board of Supervisors must formally approve the applications; therefore, this Board item is being presented at the earliest subsequent Board meeting. If the Board does not approve this request, the applications will be immediately withdrawn.

BACKGROUND:

The Consolidated Appropriations Act, 2018, contains an increase of approximately \$610 million for programs under the Head Start Act for Fiscal Year (FY) 2018. A portion of the increase provides a cost-of-living adjustment (COLA) of 2.6 percent, depending on final funding decisions, to assist grantees in increasing staff salaries and fringe benefits and offsetting higher operating costs.

Head Start and Early Head Start are national child and family development programs that provide quality early childhood education and comprehensive family support services to income eligible families with children birth to five years of age. The Head Start grant serves 434 children and their families and the Early Head Start grant serves 244 children birth to three years of age, as well as pregnant mothers.

The Department of Family Services, Office for Children was awarded a combined Early Head Start Child Care Partnership and Expansion grant to serve 56 infants and toddlers, and their families, by establishing new partnerships with family child care providers and expanding the existing EHS center-based option at the Gum Springs Glen Early Head Start program.

Board Agenda Item  
July 10, 2018

FISCAL IMPACT:

Grant funding in the amount of \$317,971 including \$63,595 in Local Cash Match is being requested to support a cost of living adjustment for the Head Start, Early Head Start, and Early Head Start Child Care Partnership and Expansion grants. The Local Cash Match requirement of \$63,595 is available in the Local Cash Match reserve for unanticipated grant awards. This action does not increase the expenditure level of the Federal-State Grant Fund as funds are held in reserve for unanticipated awards in FY 2019. This grant does allow the recovery of indirect costs; however, because this funding opportunity is highly competitive, the Department of Family Services has elected to omit inclusion of indirect costs to maximize the proposal's competitive position.

CREATION OF NEW POSITIONS:

Grant funding currently supports 68/62.3 FTE grant positions. No new grant positions are being requested with this funding. The County has no obligation to continue funding the existing positions if grant funding ends.

ENCLOSED DOCUMENTS:

Attachment 1: Head Start and Early Head Start Supplemental COLA Funding Notice  
Attachment 2: Early Head Start Child Care Partnership and Expansion Supplemental COLA Funding Notice

STAFF:

Tisha Deeghan, Deputy County Executive  
Nannette M. Bowler, Director, Department of Family Services  
Anne-Marie D. Twohie, Director, Office for Children, Department of Family Services



ADMINISTRATION FOR  
**CHILDREN & FAMILIES**

Office of Head Start | Region III | 801 Market Street, Suite 8300, Philadelphia, PA 19107 | [www.eclkc.ohs.acf.hhs.gov](http://www.eclkc.ohs.acf.hhs.gov)

May 18, 2018

Sharon Bulova, Chairman, Board of Supervisors  
County of Fairfax  
12011 Government Center Parkway  
Head Start Program  
Pennino Building, Suite 903  
Fairfax, VA 22035

Re: Grant No. 03CH010411

Dear Ms. Bulova:

The Consolidated Appropriations Act, 2018, contains an increase of approximately \$610 million for programs under the Head Start Act for Fiscal Year (FY) 2018. A portion of the increase provides a cost-of-living adjustment (COLA) of 2.6 percent, depending on final funding decisions, to assist grantees in increasing staff salaries and fringe benefits and offsetting higher operating costs.

Grants with significantly low percentages of training and technical assistance (T/TA) dollars may see an increase in those funds over previous years.

The following table reflects the increase(s) for FY 2018.

Funding Type	Amount
Head Start COLA	\$114,079
Early Head Start COLA	\$92,434
Head Start T/TA (if applicable)	\$0
Early Head Start T/TA (if applicable)	\$27,357
<b>TOTAL</b>	<b>\$233,870</b>

#### Submission Requirements

Program Instruction ACF-PI-HS-18-03, dated May 1, 2018, informed Head Start and Early Head Start grantees and delegate agencies of the intended uses of these funds and announced the opportunity for grantees to apply for the funds. Please review the Program Instruction carefully to ensure your supplemental application meets the requirements for funding and contains all of the necessary information.

The supplemental application is due June 18, 2018 and must be submitted in the Head Start Enterprise System (HSES) at <https://hses.ohs.acf.hhs.gov/hsprograms>. Please select the

Financials tab, Application tab, Fiscal Year 2018 and the budget period to add the **'Supplement - COLA'** amendment type. For technical assistance in preparing the application, please contact the HSES Help Desk at [help@hsesinfo.org](mailto:help@hsesinfo.org) or 1-866-771-4737.

Please ensure the program narrative, budget and detailed budget justification submitted in the application documents demonstrate:

- An increase of 2.6 percent in the hourly rate of pay for each Head Start/Early Head Start employee and the pay scale subject to the provisions of Sections 653 and 640(j) of the Head Start Act;
- The rationale if employees are receiving less than the 2.6 percent COLA or differential COLA increases;
- The provision of the 2.6 percent increase to all delegate agencies and partners or justification if the full percentage is not provided to delegate agencies and partners;
- The planned uses for the balance of the COLA funds to offset higher operating costs;
- Each source of non-federal match, including the estimated amount per source and the valuation methodology; and
- A detailed justification that conforms with the criteria under Section 640(b)(1)-(5) of the Head Start Act if the application proposes a waiver of any portion of the non-federal match requirement.

Signed statements of the Governing Body and Policy Council Chairs along with Governing Body and Policy Council minutes documenting each group's participation in the development and approval of the supplemental application must be provided. The application must be submitted on behalf of the Authorizing Official registered in the HSES. **Incomplete applications will not be processed.**

Please ensure the application contains all of the required information. If you have any questions or need assistance, please contact Cynthia Romero, Head Start Program Specialist, at (215) 861-4002 or [cynthia.romero@acf.hhs.gov](mailto:cynthia.romero@acf.hhs.gov) or Simareesh Madan, Contract Grants Management Specialist, at (215) 861-4047 or [simareesh.madan@acf.hhs.gov](mailto:simareesh.madan@acf.hhs.gov). Thank you for your cooperation and timely submission of the grant application.

Sincerely,



Brenda R. Hewitt, MSW  
OHS Regional Program Manager

cc: Patricia Harrison, Executive Director  
Jennifer Branch, Head Start Director





ADMINISTRATION FOR  
**CHILDREN & FAMILIES**

Office of Head Start | Region III | 801 Market Street, Suite 8300, Philadelphia, PA 19107 | [www.eclkc.ohs.acf.hhs.gov](http://www.eclkc.ohs.acf.hhs.gov)

May 18, 2018

Sharon Bulova, Chairman, Board of Supervisors  
County of Fairfax  
12000 Government Center Parkway  
Fairfax, VA 22035

Re: Grant No. 03HP0003

Dear Ms. Bulova:

The Consolidated Appropriations Act, 2018, contains an increase of approximately \$610 million for programs under the Head Start Act for Fiscal Year (FY) 2018. A portion of the increase provides a cost-of-living adjustment (COLA) of 2.6 percent, depending on final funding decisions, to assist grantees in increasing staff salaries and fringe benefits and offsetting higher operating costs.

Grants with significantly low percentages of training and technical assistance (T/TA) dollars may see an increase in those funds over previous years.

The following table reflects the increase(s) for FY 2018.

Funding Type	Amount
Head Start COLA	\$0
Early Head Start COLA	\$20,506
Head Start T/TA (if applicable)	\$0
Early Head Start T/TA (if applicable)	\$0
<b>TOTAL</b>	<b>\$20,506</b>

#### Submission Requirements

Program Instruction ACF-PI-HS-18-03, dated May 1, 2018, informed Head Start and Early Head Start grantees and delegate agencies of the intended uses of these funds and announced the opportunity for grantees to apply for the funds. Please review the Program Instruction carefully to ensure your supplemental application meets the requirements for funding and contains all of the necessary information.

The supplemental application is due June 18, 2018 and must be submitted in the Head Start Enterprise System (HSES) at <https://hses.ohs.acf.hhs.gov/hsprograms>. Please select the Financials tab, Application tab, Fiscal Year 2018 and the budget period to add the

'Supplement - COLA' amendment type. For technical assistance in preparing the application, please contact the HSES Help Desk at [help@hsesinfo.org](mailto:help@hsesinfo.org) or 1-866-771-4737.

Please ensure the program narrative, budget and detailed budget justification submitted in the application documents demonstrate:

- An increase of 2.6 percent in the hourly rate of pay for each Head Start/Early Head Start employee and the pay scale subject to the provisions of Sections 653 and 640(j) of the Head Start Act;
- The rationale if employees are receiving less than the 2.6 percent COLA or differential COLA increases;
- The provision of the 2.6 percent increase to all delegate agencies and partners or justification if the full percentage is not provided to delegate agencies and partners;
- The planned uses for the balance of the COLA funds to offset higher operating costs;
- Each source of non-federal match, including the estimated amount per source and the valuation methodology; and
- A detailed justification that conforms with the criteria under Section 640(b)(1)-(5) of the Head Start Act if the application proposes a waiver of any portion of the non-federal match requirement.

Signed statements of the Governing Body and Policy Council Chairs along with Governing Body and Policy Council minutes documenting each group's participation in the development and approval of the supplemental application must be provided. The application must be submitted on behalf of the Authorizing Official registered in the HSES. **Incomplete applications will not be processed.**

Please ensure the application contains all of the required information. If you have any questions or need assistance, please contact Asha Williams, Head Start Program Specialist, at (215) 861-4671 or [asha.williams@acf.hhs.gov](mailto:asha.williams@acf.hhs.gov) or Simareesh Madan, Contract Grants Management Specialist, at (215) 861-4047 or [simareesh.madan@acf.hhs.gov](mailto:simareesh.madan@acf.hhs.gov). Thank you for your cooperation and timely submission of the grant application.

Sincerely,



Brenda R. Hewitt, MSW  
OHS Regional Program Manager

cc: Patricia Harrison, Executive Director  
Jennifer Branch, Head Start Director

Board Agenda Item  
July 10, 2018

ADMINISTRATIVE – 7

Appointment of Private Provider and Parent Representatives to the Fairfax-Falls Church Community Policy and Management Team (CPMT)

ISSUE:

In order to fulfill Virginia Code requirements, Fairfax-Falls Church Community Policy and Management Team (CPMT) Bylaws provide for two representatives of private organizations or associations of providers for children's or family services and five parent representatives, who are not employees of any public or private CSA provider of services, to be approved by the CPMT and the Board of Supervisors for terms of up to two years. Re-appointments may be made for additional consecutive terms upon approval of the CPMT and the Board of Supervisors.

RECOMMENDATION:

The County Executive recommends that the Board re-appoint Rick Leichtweis, Ph.D. of INOVA Kellar Center in Fairfax for a term to expire on June 30, 2020, as a provider representative member of the CPMT. The County Executive recommends that the Board appoint Terry Williams as a parent representative to the CPMT with her term to expire on June 30, 2020.

TIMING:

Board action is requested on July 10, 2018.

BACKGROUND:

As required under the Virginia Children's Services Act (CSA), the Fairfax County Board of Supervisors and the Fairfax and Falls Church City Councils established a joint Community Policy and Management Team and appointed original members in October 1992. Members include the Deputy County Executive for Human Services, one representative each from the Cities of Fairfax and Falls Church, The Directors of the Community Services Board, Juvenile and Domestic Relations District Court, Department of Health, Family Services, Neighborhood and Community Services, Administration for Human Services, three representatives of the Fairfax County Public Schools, one representative of the Falls Church City Public Schools, two representatives of private providers of children's and family's services, one community representative and four parent representatives.

Board Agenda Item  
July 10, 2018

The CPMT nominated to the Board of Supervisors Mrs. Williams (see below) for appointment as parent representative, and Dr. Leichtweis for re-appointment as private provider representative.

*Terry Williams* has a background in Human Resources and currently serves as a Family Support Partner for the National Alliance for Mental Illness (NAMI). As the parent of two children with complex mental health needs, she has been involved with CSA through the FRM, FPM and ICC processes. She has completed the CSA Systems of Care trainings and is a state certified Family Support Partner.

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

None.

STAFF:

Tisha Deeghan, Deputy County Executive

Janet Bessmer, Program Manager, Children's Services Act



ACTION – 1

Approval of Head Start/Early Head Start Policy Council Bylaws and Self-Assessment Report

ISSUE:

Board approval of the Head Start/Early Head Start Policy Council Bylaws and Self-Assessment Report.

RECOMMENDATION:

The County Executive recommends that the Board approve the Head Start/Early Head Start Policy Council Bylaws and Self-Assessment Report.

TIMING:

Board action is requested on July 10, 2018 to meet federal Head Start Performance Standards.

BACKGROUND:

Existing rules and regulations require that the Board of Supervisors, as the County's governing body, review and approve the composition of the Head Start Parent Policy Council and the procedures by which members are chosen, and the Head Start program's annual Self-Assessment Report, including actions that are being taken by the program as a result of the self-assessment review. Board approval of the following attachments will satisfy these compliance requirements: 1) Policy Council Bylaws and 2) Self-Assessment Report.

**1. Policy Council Bylaws**

The Head Start Parent Policy Council provides a formal structure of shared governance through which parents can participate in policy making and other decisions about the program. The Bylaws of the Policy Council were developed based on the federal Head Start Performance Standards on program governance and outline the composition and selection criteria to ensure equal representation for all programs and that at least 51 percent of Policy Council members are parents of currently enrolled children, as required.

The Board of Supervisors most recently approved the Policy Council Bylaws on June 20, 2017. The Policy Council reviewed the Bylaws on May 24, 2018 and have no proposed changes. The Office of the County Attorney has reviewed the Bylaws.

**2. Self-Assessment Report**

The Fairfax County Head Start/Early Head Start program conducts an annual self-assessment of its effectiveness and progress in meeting program goals and objectives and in implementing federal regulations every year, as required by federal Head Start Performance Standards. The results are included in the attached Self-Assessment Report, which outlines strengths and areas to be addressed, as well as any actions being taken to address them.

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

Attachment 1 – Fairfax County Head Start/Early Head Start Policy Council Bylaws

Attachment 2 – Fairfax County Head Start/Early Head Start 2018 Self-Assessment Report

STAFF:

Tisha Deeghan, Deputy County Executive

Nannette M. Bowler, Director, Department of Family Services

Anne-Marie D. Twohie, Director, Office for Children, Department of Family Services

ASSIGNED COUNSEL:

Daniel Robinson, Assistant County Attorney

**FAIRFAX COUNTY OFFICE FOR CHILDREN  
HEAD START/EARLY HEAD START POLICY COUNCIL  
BYLAWS**

**ARTICLE I. NAME**

The name of the organization shall be the Policy Council of the Fairfax County Head Start/Early Head Start Program.

**ARTICLE II. PURPOSE**

The purpose of the Fairfax County Head Start/Early Head Start Policy Council shall be to provide direction for the Head Start/Early Head Start program in compliance with Federal Head Start Performance Standards (45 CFR Chapter XIII, Subchapter B) and the Head Start Act as amended December 12, 2007. Specifically, 45 CFR 1301.3 (a) states each agency must establish and maintain a policy council responsible for the direction of the Head Start program at the grantee agency level, and a policy committee at the delegate level. The Policy Council is responsible for providing direction on program design and operation, long- and short-term planning goals and objectives. This direction must take into consideration results from the annual community-wide strategic planning and needs assessment and self-assessment (Head Start Act section 642(c)(2)(A)).

The specific objectives and purpose of this Policy Council shall be to approve and submit to the governing body, Fairfax County Board of Supervisors, decisions on each of the following activities (Head Start Act section 642(c)(2)(D)(i) through (viii) and 45 CFR 1301.3(c)(2)):

- A) Activities that support the active involvement of parents in supporting program operations, including policies to ensure Fairfax County Head Start/Early Head Start program is responsive to community and parent needs.
- B) Program recruitment, selection, and enrollment priorities.
- C) Applications for funding and amendments to applications for funding for Fairfax County Head Start/Early Head Start program.
- D) Budget planning for program expenditures, including policies for reimbursement and participation in policy council activities.
- E) Bylaws for the operation of the policy council.
- F) Program and personnel decisions regarding the recommendation of hiring program staff.
- G) Ongoing monitoring results, data on school readiness goals and status reports of program operations.
- H) Developing procedures for how members of the Policy Council will be elected.
- I) Recommendations on the selection of delegate agencies and the service areas for such agencies.

**ARTICLE III. MEMBERSHIP**

**FAIRFAX COUNTY OFFICE FOR CHILDREN**  
**HEAD START/EARLY HEAD START POLICY COUNCIL**  
**BYLAWS**

Policy Council members should be committed to being representatives for the total Fairfax County Head Start/Early Head Start Program. They should be team players, be willing to learn the duties and responsibilities of the Policy Council and represent the Council in a positive and supportive manner at all times and in all places.

- Section 1. The Fairfax County Head Start/Early Head Start Policy Council shall consist of six (6) parent representatives from the grantee program and six (6) parent representatives from each of the delegate programs. The parent representatives must have children currently enrolled in the Head Start /Early Head Start program. The grantee program includes Greater Mount Vernon Community Head Start (GMVCHS), Family Child Care (FCC) Partnership and EHS Expansion programs. The delegate programs are Fairfax County Public Schools (FCPS) and Higher Horizons (HiHo). In addition to the parent representatives, there must also be at least two (2) community representatives, who must be residents of/or employed in Fairfax County. All program options must be represented.
- Section 2. Parent representatives of currently enrolled children shall be elected to the Policy Council at the grantee and delegate program level by the program's respective policy or parent committee.
- Section 3. Community representatives may include representation from other child care programs, neighborhood community groups (public and private), higher education institutions, program boards, and community or professional organizations which have a concern for children and families in the Head Start/Early Head Start Program and can contribute to the direction of the program. Community representatives are nominated by the Head Start Division Director and the Policy Council Executive Committee and must be elected by parent representatives of the Council to serve.
- Section 4. Voting members must resign from the Policy Council if they or an immediate family member (as defined by Virginia Code § 2.2-3101) become employed, temporarily (for sixty (60) days or more) or permanently, by the Fairfax County Head Start/Early Head Start Program. Voting members may substitute occasionally (as defined by each program) in the Fairfax County Head Start/Early Head Start Program.
- Section 5. Policy Council members shall be elected to serve a one (1) year term and may not serve more than three (3) years. Members may voluntarily terminate their membership at any time by giving written notice to the Council. The respective policy or parent committee will be responsible for recruiting and electing a new member to the Council within one month of resignation or termination of the member. In the event of termination or resignation of a community representative, the Head Start Director and the Policy Council Chairperson will

**FAIRFAX COUNTY OFFICE FOR CHILDREN**  
**HEAD START/EARLY HEAD START POLICY COUNCIL**  
**BYLAWS**

recruit a replacement. Election of a new community representative shall take place within one month of resignation or termination of the member.

- Section 6. Any member who misses two (2) consecutive meetings without notifying the Office for Children Head Start Program Administrative Office, neglects responsibility, and/or abuses the privilege of office may be terminated by the Policy Council with a majority vote of the quorum. Written notification will be sent to the terminated member under signature of the Policy Council Chairperson.

**ARTICLE IV. MEETINGS**

- Section 1. Fairfax County Head Start/Early Head Start Policy Council meetings shall be held on the fourth (4<sup>th</sup>) Thursday of each month with dinner being served at 6:00 p.m. and call to order at 6:30 p.m. If the fourth (4<sup>th</sup>) Thursday is a legal holiday, the meeting may be rescheduled to the third Thursday of the month.

- Section 2. All meetings shall be conducted in compliance with the Virginia Freedom of Information Act, Virginia Code §§ 2.2-3700 – 2.2-3714 (“VFOIA”), and except for closed sessions, all meetings shall be open to the public. Pursuant to Virginia Code § 2.2-3701, “meeting” or “meetings” means the meetings including work sessions, when sitting physically, or through telephonic or video equipment pursuant to § 2.2-3708 or § 2.2-3708.1, as a body or entity, or as an informal assemblage of (i) as many as three members or (ii) a quorum, if less than three, of the constituent membership, wherever held, with or without minutes being taken, whether or not votes are cast, of any public body. As required by VFOIA, the public will be given notice of the date, time, and location of the meetings at least three working days before each Policy Council meeting, except in case of an emergency. Notice, reasonable under the circumstances of emergency meetings, shall be given contemporaneously with the notice provided to members. The Head Start administrative staff and/or Chairperson will provide the information to the County’s Office of Public Affairs so that it can provide the public notice. All meetings shall be held in places that are accessible to persons with disabilities, and all meetings shall be conducted in public buildings whenever practical.

Except as otherwise provided by Virginia law or by these bylaws, all meetings shall be conducted in accordance with Roberts’s Rules of Order, Newly Revised, and except as specifically authorized by VFOIA, no meeting shall be conducted through telephonic, video, electronic, or other communication means where the members are not all physically assembled to discuss or transact public business.

Copies of meeting agendas and other materials that are given to members shall be made available to the public at the same time, unless VFOIA allows otherwise. Anyone may photograph, film, or record meetings, so long as they do not interfere with any of the proceedings.

**FAIRFAX COUNTY OFFICE FOR CHILDREN**  
**HEAD START/EARLY HEAD START POLICY COUNCIL**  
**BYLAWS**

ATTACHMENT 1

The Secretary shall keep meeting minutes, which shall include: (1) the date, time, and location of each meeting; (2) the members present and absent; (3) a summary of the discussion on matters proposed, deliberated, or decided; and (4) a record of any votes taken. The minutes are public records and subject to inspection and copying by citizens of the Commonwealth or by members of the news media. The minutes from the previous meeting shall be sent to members at least seven (7) calendar days prior to the regular meeting.

Section 3. Special call meetings can be called by the Chairperson and the Head Start Director and scheduled when deemed necessary. Public notice will be given as required by VFOIA and members will be informed in writing and/or via telephone simultaneous with or prior to public notice.

Section 4. Policy Council members who are voted to represent the Council at conferences must meet the following criteria:

- 1) Be an active participant in good standing with their Parent/Policy Committee for at least 2 consecutive meetings.
- 2) Have served on the Policy Council for a minimum of one year.
- 3) Be able to give either an oral summary or submit a written report (whether still a member or not) at the next regularly scheduled meeting.

Section 5. In the event of inclement weather Policy Council will adhere to the Fairfax County Public Schools closure schedule. The Head Start administrative staff and/or Chairperson will contact members regarding a rescheduled date and will comply with the public notice requirements above.

**ARTICLE V. OFFICERS**

Section 1. The Officers of the Policy Council shall be: Chairperson, Vice-Chairperson, Secretary, Treasurer, and Parliamentarian. These officers shall perform the duties prescribed by the Federal Head Start Performance Standards and the Head Start Act, by these Bylaws and by the current Roberts Rules of Order, adopted by the Policy Council.

Section 2. Election of officers will take place at the December meeting. Members can nominate themselves or be nominated by another Policy Council member.

Section 3. The officers shall serve a one (1) year election term or until their successors are elected. Their term of office shall begin at the close of the Council meeting at which they are elected.

Section 4. No member shall hold more than one (1) office at a time, and no member shall be eligible to serve more than three (3) terms.

**FAIRFAX COUNTY OFFICE FOR CHILDREN**  
**HEAD START/EARLY HEAD START POLICY COUNCIL**  
**BYLAWS**

ATTACHMENT 1

Section 5. Should the Chair position become vacant, the Vice-Chairperson shall become the Chairperson for the remainder of the term. The Council shall elect a replacement for Vice-Chairperson at its next regular meeting to serve the balance of the term.

In the absence of the Chairperson and Vice-Chairperson, responsibilities of the Chair are assumed by the Treasurer and the Parliamentarian will maintain order. The Policy Council Secretary continues to record minutes.

Section 6. The duties of officers are as follows:

- 1) Chairperson – Presides at all Policy Council and Executive Committee meetings; may act as a spokesperson for the Council in events concerning the Head Start program.
- 2) Vice-Chairperson – Assumes the duties of the Chairperson in the absence of the Policy Council Chairperson; performs other duties as assigned by the Chairperson.
- 3) Secretary – Records minutes of the Policy Council meetings with assistance from grantee staff; makes the appropriate corrections to meeting minutes as directed; compiles and keeps current list of all voting members and records their attendance; keeps on file all minutes of the Policy Council; reads minutes and other correspondence at meetings, calls members about absence from meetings, reminds members about meetings and training and tabulates votes.
- 4) Treasurer – Maintains the Council's financial records, prepares Treasurer's report and balances the checkbook; serves on the Budget Subcommittee; prepares for signature and distributes reimbursements, stipends, and payment of invoices; coordinates out-of-town travel funds for Policy Council members, who would be assisted by the grantee staff.
- 5) Parliamentarian – Keeps order during the meetings in accordance with the Policy Council Bylaws and in accordance with the current edition of Roberts' Rules of Order.

**ARTICLE VI. COMMITTEES**

Section 1. Executive Committee. Officers of the Policy Council shall constitute the Executive Committee. The Executive Officers will meet one week prior to the regular Policy Council meetings on an as-needed basis. The purpose for meeting is to establish agenda items and agree upon recommendations to present to the full Policy Council of items needing approval/disapproval. Meetings of the Executive Committee are public meetings and shall comply with VFOIA, including the meeting notice requirements set forth in Article IV, Sections 2 and 3.

**FAIRFAX COUNTY OFFICE FOR CHILDREN**  
**HEAD START/EARLY HEAD START POLICY COUNCIL**  
**BYLAWS**

- Section 2. The Policy Council may create other committees as needed to carry out its duties (i.e. finance, self-assessment). Meetings of these other committees are also public meetings and shall comply with VFOIA, including the meeting notice requirements set forth in Article IV, Sections 2 and 3.
- Section 3. Policy Council members may be appointed by the Head Start Division Director to serve on other Fairfax County Boards, Commissions or Committees and/or private agencies and community boards. Policy Council members will represent the Fairfax County Head Start/Early Head Start program on these boards.

**ARTICLE VII. GRIEVANCES**

- Section 1. A standard grievance procedure to hear and resolve parent and community complaints about Head Start is approved annually by the Policy Council and will be used to address complaints not resolved at the center level and at the grantee agency.

**ARTICLE VIII. PARLIAMENTARY AUTHORITY**

- Section 1. The rules contained in the current edition of Roberts' Rules of Order Newly Revised shall govern the Policy Council in all cases to which they are applicable and in which they are not inconsistent with these Bylaws and any special rules or order the organization may adopt.

**ARTICLE IX. AMENDMENT OF BYLAWS**

- Section 1. These Bylaws shall be reviewed annually and recommendations presented to the Council for approval. The Policy Council will be given thirty (30) days to review recommendations.
- Section 2. The Bylaws may be amended at any regular meeting of the Policy Council or at a special meeting called for such purpose by majority vote of the Council members present, provided that representatives from each delegate agency are present and voting.
- Section 3. Amendments to the Bylaws will be presented to the Fairfax County Board of Supervisors for approval, and will become effective upon approval by the Board of Supervisors.

**ARTICLE X. VOTING**

- Section 1. All matters shall be decided on by vote of the members. The vote of a majority of the quorum is needed to authorize any action. Seven (7) Council members (with at least two (2) representatives from each program and one (1) community



**FAIRFAX COUNTY OFFICE FOR CHILDREN**  
**HEAD START/EARLY HEAD START POLICY COUNCIL**  
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representative) constitute a quorum. All votes shall be taken during a public meeting, and no vote shall be taken by secret or written ballot or by proxy. Voting may be by aye/nay, show of hands. Approved matters must be recorded in the minutes of the meeting. The Policy Council Secretary tabulates the votes, along with a designated staff/Policy Council member.

**ARTICLE XI. TRAINING**

Section 1. The Council and its officers shall receive annual training (45 CFR 1301.5) which includes: Head Start Performance Standards, Head Start Act, Roberts' Rules of Order, VFOIA, roles and responsibilities of members and officers, subcommittee functions, budget and finance, personnel procedures and conference travel procedures.

**ARTICLE XII. ACTIONS**

Section 1. A motion must be made when the Council is required to take action and/or make decisions.

**ARTICLE XIII. STIPENDS**

Section 1. Stipends in the amount of \$15.00 will be given to voting members except for community representatives at regularly scheduled Policy Council meetings.



## PROGRAM SELF-ASSESSMENT SUMMARY 2018

Fairfax County Head Start/Early Head Start program conducted its required annual self-assessment during February and March 2018. Annual self-assessment of programs is a requirement of the Head Start Program Performance Standards 45 CFR 1302.102(b)(2)(i). All Fairfax County Head Start/Early Head Start programs, including those operated directly by Fairfax County Office for Children—Greater Mount Vernon Community Head Start (GMVCHS) center—and those operated contractually by family child care programs and by delegate agencies—Higher Horizons Day Care Center, Inc. and Fairfax County Public Schools (FCPS)—and all options (i.e., center-based, home-based, family child care and child care partnerships) were reviewed using a locally designed protocol based upon the Head Start Program Performance Standards (HSPPS). The self-assessment supports the continuous improvement of program plans and service delivery, providing an opportunity for engaging parents and community stakeholders.

### **FISCAL - Financial Management Systems, Reporting, Procurement, Compensation, Cost Principles, Facilities and Property**

#### ***Service area found in compliance.***

##### ***Highlights:***

- There are sound fiscal systems in place that meet or exceed federal standards for financial reporting, accounting records, internal control, budget control, compliance with cost principles, cash management and administrative cost. Monthly desk reviews and quarterly fiscal monitoring systems provide a strong system of controls to ensure that delegate agencies are using HS/EHS grant funds in compliance with federal rules and regulations.
- In addition to federal funding, Fairfax County Government leverages several funding sources to support the Head Start/Early Head Start and Child Care Partnership & Expansion programs. Local Cash Match (LCM) dollars and in-kind contributions are provided by Fairfax County Board of Supervisors to support salaries, fringe benefits, transportation, supplies, food, facilities and/or contractual services.

### **PROGRAM DESIGN AND MANAGEMENT - Program Governance, Planning, Communication, Record-keeping and Reporting, Ongoing Monitoring, Human Resources, Organizational Structure, Facilities, Materials, Equipment and Transportation**

#### ***Service area found in compliance.***

##### ***Highlights:***

- Parents are knowledgeable, and skilled in advocacy. Parents on the Policy Council are actively engaged in oversight of the program. Policy Council board members also serve as representatives on county-wide advisory groups (Successful Children and Youth Policy Team, the Community Action Advisory Board and the Equitable School Readiness Strategic Plan Team) and have been commended for their contributions by the Board of Supervisors. Additionally, parents participated in a national leadership advocacy training event in the fall of 2017 and met with State legislators.
- Fairfax County Office for Children, Fairfax County Public Schools and the county's School Readiness Community Collaborative Council coordinated the development of a five-year strategic plan to ensure that the county's school readiness resources best support those who need them most. The Fairfax County Equitable School Readiness Strategic Plan lays out a vision and roadmap for ensuring that all young children in Fairfax County have the supports they need to be successful in school and beyond.

##### ***Recommendation for improvement:***

- Continue County procurement process for issuing a Request for Proposal for Transportation Services.

**ERSEA – Eligibility, Recruitment, Selection, Enrollment and Attendance (ERSEA)**

**Area of non-compliance:** Family Child Care option was under-enrolled since October 2017.

**Highlights:**

- All programs have strong attendance procedures that align with the new HSPPS standards. Teachers and family service workers implemented new strategies regarding attendance which resulted in lower rates of chronic absence.

**Recommendation for improvement:**

- Program has developed an action plan to meet and maintain full enrollment in the family child care option by increasing community awareness, outreach and enrollment strategies. Professional marketing input has enhanced marketing materials and strategies.

**CHILD DEVELOPMENT - Individualization, Disabilities Services, Curriculum and Assessment**

**Service area found in compliance.**

**Highlights:**

- There are strong supports for children with disabilities; programs and agencies working cooperatively to help ensure that children receive the services they need, that families are fully engaged, and that transitions are managed effectively.
- Social-emotional curricula are being implemented to support children's healthy pro-social skill development and reinforce classroom practices that strengthen children's ability to self-regulate and problem-solve.
- The grantee supported and coordinated with programs to ensure that Classroom Assessment Scoring System (CLASS) observations were completed for Head Start classrooms, helping ensure timely, valid data for program and individual professional development.
- Programs participated in the Fairfax PreK to Third Grade Project (FP3) longitudinal study of children and their education experiences from preschool through third grade as part of a partnership with the University of Virginia, FCPS, and Fairfax County Office for Children. This program year, programs involved in the study received first year data (SY16-17) from a variety of validated measures to assess children's skill in language, literacy, mathematics, executive function, and social-emotional competencies, as well as the quality of teacher-child interactions.

**Recommendations for improvement:**

- Strengthen coaching models that support professional development for staff and family child care partners.
- Conduct infant and/or toddler observations in EHS classrooms and partner homes to ensure full alignment of CLASS data for professional development to support positive teacher/partner-child interactions across the programs and options.
- Ensure programs have an organized approach to curricula to ensure implementation fidelity.

**HEALTH & SAFETY - Child health status and care, follow-ups, child nutrition, mental health, safety practices**

**Service area found in compliance.**

**Highlights:**

- Overall improvement in compliance with dental exams and 90-day health requirements (which include physicals, hemoglobin, lead, TB, and blood pressure).
- Higher Horizons implemented text messaging as a form of communication to remind parents of health requirement due dates. As they have reported successful outcomes, this method will be implemented program-wide.

- FCPS Health and Mental Health staff attended enrollment appointments to complete assessments and screenings, which assisted in meeting health needs of each child prior to children starting in the classroom.
- GMVCHS participated in the 2018 Fairfax County Health Department immunization summary. Results found that at 24 months, 88 percent of the children enrolled at the Glen were up to date on their immunization sequence. This is significantly higher than the Virginia state average of 72 percent.
- Increased compliance with 45-day health, safety, and facility site visits – 97 percent of HS classrooms were compliant, as were 98 percent of EHS classrooms.

**FAMILY AND COMMUNITY ENGAGEMENT - Family Partnership Building, Parent Involvement, Community and Child Care Partnerships**

***Service area found in compliance.***

***Highlights:***

- One hundred percent of families were assessed using the Family Outcomes Assessment and have been engaged in the Family Partnership Agreement process and identified goals for the Parent, Family, and Community Engagement (PFCE) outcomes.
- Programs are providing intentional and individualized family engagement services, with multiple family engagement opportunities including attending parent meetings and volunteering in classrooms.
- Parents have articulated high satisfaction with program services and are fully engaged in all service areas.

***Recommendations for improvement:***

- Family service workers improve ongoing documentation regarding family progress toward goals.
- Programs are in the process of identifying research- and evidence-based parenting curricula.

Board Agenda item  
July 10, 2018

ACTION – 2

Adoption of a Resolution Approving the Issuance of Industrial Development Authority Health Care Revenue Bonds (Inova Health System Project) Series 2018 Bond Issue

ISSUE:

Board adoption of a resolution approving the issuance by the Industrial Development Authority (“IDA”) of Fairfax County of its Health Care Revenue Bonds (Inova Health System Project) Series 2018 (the “Bonds”), in multiple series to be issued from time to time.

RECOMMENDATION:

The County Executive recommends that the Board approve the issuance of the Bonds by adopting the resolution that is set forth as Attachment 1 (the “County Resolution”).

TIMING:

Board action is requested on July 10, 2018, so that Inova may proceed to sell and close the bonds to take advantage of favorable market conditions.

BACKGROUND:

In order for Inova to sell the Bonds, this action is required by the Ordinance adopted on October 28, 1974 by the Board of Supervisors of Fairfax County, Virginia (the “Ordinance”). Proceeds of the Bonds will be used by the Inova Health System Foundation and its affiliates (“Inova”) to construct, renovate and upgrade various new and existing facilities and refund all or a portion of (a) the Virginia Small Business Financing Authority’s Health Care Revenue Bonds (Inova Health System Project), Series 2017 (the “Series 2017 Bonds”), (b) the IDA’s outstanding Health Care Revenue Bonds (Inova Health System Project), Series 2005C-1 and Series 2005C-2 (collectively, the “Series 2005C Bonds”), and (c) the IDA’s outstanding Variable Rate Demand Health Care Revenue Bonds (Inova Health System Project), Series 2000A (the “Series 2000A Bonds”) (collectively, the Series 2017 Bonds, the Series 2005C Bonds and the Series 2000A Bonds are referred to as the “Prior Bonds”). The issuance of the Bonds and the refunding of the Prior Bonds is being done to take advantage of the favorable interest rate environment and to reduce risks associated with certain variable rate products. The Bonds may also support funding for a debt service reserve for the Bonds if in the opinion of Inova at the time of the sale of the Bonds a debt service reserve fund is warranted, and paying all or a portion of the costs of issuance.

Board Agenda item  
July 10, 2018

Pursuant to the Ordinance, a copy of the resolution (the "IDA Resolution") adopted by the IDA on June 22, 2018, constituting the recommendation of the IDA that the Board of Supervisors approve the issuance of the Bonds is submitted to the County (Attachment 2).

Upon adoption of the Resolution, the Chairman of the Board of Supervisors and the County Executive will be authorized to execute a letter evidencing the approval of the Board of Supervisors of the issuance of the Bonds. No further action will be required of the Board of Supervisors for the issuance of the Bonds.

FISCAL IMPACT:

The Fiscal Impact Statement (Attachment 3) reflects the estimated economic fiscal impact. This action does not constitute a debt obligation of the County or the Board and therefore has no impact on the County's financial statements. The Bonds will be entirely supported by the revenues of Inova.

ENCLOSED DOCUMENTS:

The following documents are attached in substantially final form:  
Attachment 1 - County Resolution Approving the Issuance of the Bonds  
Attachment 2 - IDA Resolution  
Attachment 3 - Fiscal Impact Statement

STAFF:

Joseph LaHait, County Debt Coordinator, Department of Management and Budget  
Richard Magenheimer, Chief Financial Officer, Inova Health System Foundation

ASSIGNED COUNSEL:

Emily Harwood Smith, Assistant County Attorney

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Fairfax County Government Center at Fairfax, Virginia, on Tuesday, July 10, 2018, at which meeting a quorum was present and voting, the following resolution was adopted:

**RESOLUTION OF THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA, APPROVING, AMONG OTHER THINGS, A PLAN OF FINANCING AND THE ISSUANCE OF NOT EXCEEDING \$500,000,000 AGGREGATE PRINCIPAL AMOUNT OF INDUSTRIAL DEVELOPMENT AUTHORITY OF FAIRFAX COUNTY, VIRGINIA, REVENUE BONDS (INOVIA HEALTH SYSTEM PROJECT) SERIES 2018 TO BE ISSUED IN ONE OR MORE SERIES; AND DELEGATING CERTAIN POWERS TO THE COUNTY EXECUTIVE**

**WHEREAS**, Fairfax County, Virginia (the “County”) is a political subdivision of the Commonwealth of Virginia exercising public and essential governmental functions pursuant to the Constitution and laws of the Commonwealth of Virginia; and

**WHEREAS**, on October 28, 1974, the Board of Supervisors of Fairfax County, Virginia (the “Board”) adopted by ordinance (the “Ordinance”) an emergency amendment to the 1961 Code of the County of Fairfax, Virginia, as amended, providing a new Chapter 15F creating the Industrial Development Authority of Fairfax County, Virginia (the “Authority”), and appointing the initial members thereof and said Ordinance having been duly readopted on December 9, 1974, as required by law; and

**WHEREAS**, the Ordinance authorizes the Authority to exercise all the powers granted by the Industrial Development and Revenue Bond Act, being Chapter 49, Title 15.2, Code of Virginia of 1950, as amended (the “Act”), including the power to issue revenue bonds of the Authority for the purpose of providing funds to pay the cost of certain projects required or useful for health care purposes; and

**WHEREAS**, Inovia Health Care Services (“Inovia Health Care”) is a private, nonstock corporation duly incorporated and validly existing under and by virtue of the laws of the Commonwealth of Virginia, which operates Inovia Fairfax Hospital, Inovia Fair Oaks Hospital and Inovia Mount Vernon Hospital located in Fairfax County, Virginia, and Inovia Alexandria Hospital located in the City of Alexandria, Virginia; and

**WHEREAS**, Loudoun Hospital Center (“Inovia Loudoun Hospital”) is a private, nonstock corporation duly incorporated and validly existing under and by virtue of the laws of the Commonwealth of Virginia, which operates Inovia Loudoun Hospital located in Loudoun County, Virginia; and

**WHEREAS**, Inova Health System Foundation (“Inova”) is the controlling member of Inova Health Care and Inova Loudoun Hospital (collectively with Inova, the “Inova Obligated Group”); and

**WHEREAS**, the Virginia Small Business Financing Authority has previously issued its Health Care Revenue Bonds (Inova Health System Project), Series 2017 (the “Series 2017 Bonds”), the Authority has previously issued its Health Care Revenue Bonds (Inova Health System Project), Series 2005C-1 and Series 2005C-2 (collectively, the “Series 2005C Bonds”); and the Authority has previously issued its Variable Rate Demand Health Care Revenue Bonds (Inova Health System Project), Series 2000A (the “Series 2000A Bonds” and, collectively with the Series 2017 Bonds and the Series 2005C Bonds, the “Prior Bonds”); and

**WHEREAS**, the Authority has, by resolution adopted on June 22, 2018 (the “Authority Resolution”), approved a plan of financing and refinancing (the “Plan of Financing”) which will entail the issuance by the Authority from time to time of one or more series of its revenue bonds (the “Bonds”) for the purpose of providing funds to undertake any or all of the following: (a) construct, renovate and upgrade various new and existing facilities; (b) undertake the refunding of all or any portion of the Prior Bonds; (c) fund a debt service reserve fund for the Bonds, if in the opinion of Inova at the time of the sale of the Bonds, a debt service reserve fund is warranted; (d) finance a portion of interest accruing on the Bonds; and (e) pay certain expenses incurred in connection with the authorization, issuance and sale of the Bonds; the Bonds shall be issued in an aggregate principal amount not to exceed \$500,000,000 for the financing and refinancing of the Project and the refunding of the Prior Bonds; and

**WHEREAS**, the Authority has delivered or caused to be delivered to the Board the following: (i) a reasonably detailed summary of the comments expressed at the public hearing held by the Authority in connection with the Plan of Financing, the issuance of the Bonds and the refunding of the Prior Bonds; (ii) a fiscal impact statement concerning the Bonds in the form specified in Section 15.2-4907 of the Act; and (iii) a copy of the Authority Resolution setting forth the recommendation of the Authority that the Board approve the Plan of Financing including the issuance of the Bonds; and

**WHEREAS**, the Board has determined that it is necessary at this time to approve the Plan of Financing, including the issuance of the Bonds, in an aggregate principal amount set forth above to promote the improvement of the health and living conditions of the people of the County and the Commonwealth of Virginia, improve health care and otherwise aid in improving the prosperity and welfare of the County and the Commonwealth of Virginia and its inhabitants;

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Supervisors of Fairfax County, Virginia:

**Section 1.** The Board hereby approves the Plan of Financing, including the issuance by the Authority of the Bonds in one or more series in an aggregate principal amount not exceeding five hundred million dollars (\$500,000,000) as described herein for the purpose of providing funds to (a) construct, renovate and upgrade various new and existing facilities; (b) undertake the refunding of all or any portion of the Prior Bonds; (c) fund a debt service reserve fund for the Bonds, if in the opinion of Inova at the time of the sale of the Bonds, a debt service reserve fund



is warranted; (d) finance a portion of interest accruing on the Bonds; and (e) pay certain expenses incurred in connection with the authorization, issuance and sale of the Bonds.

**Section 2.** The Chairperson of the Board of Supervisors and the County Executive or his designee are hereby authorized and directed, on behalf of the Board, to take any and all actions necessary, including the execution of any documents, to carry out the Plan of Financing and to consummate the issuance and sale of the Bonds in conformity with the provisions of this resolution.

**Section 3.** The approval of the Plan of Financing and the issuance of the Bonds and the refunding of all or any portion of the Prior Bonds, as required by Section 147(f) of the Internal Revenue Code of 1986, as amended, and the Act, does not constitute an endorsement to any prospective purchaser of the Bonds of the creditworthiness of Inova, or any of its affiliates, and, as required by the Act, the Bonds shall provide that neither the Commonwealth of Virginia, the County nor the Authority shall be obligated to pay the principal of, the redemption premium, if any, or the interest on the Bonds or other costs incident thereto except from the revenues and funds pledged therefor and neither the faith or credit nor the taxing power of the Commonwealth of Virginia, the County or the Authority shall be pledged thereto.

**Section 4.** The approval by the Board of the Plan of Financing, including the issuance by the Authority of the Bonds in one or more series, from time to time, and the refunding, conversion or restructuring of all or a portion of the Prior Bonds as provided herein, does not constitute the granting of approval for purposes of, or the waiver or rights, or rights of approval, with respect to any other regulatory functions of the County concerning any of the facilities financed or refinanced with the proceeds of the Bonds that lie within the County, including but not limited to permits, zoning, and availability fees.

**Section 5.** This Resolution shall take effect immediately.

A Copy Teste:

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Catherine A. Chianese  
Clerk to the Board of Supervisors

**SERIES RESOLUTION OF THE INDUSTRIAL DEVELOPMENT AUTHORITY OF FAIRFAX COUNTY, VIRGINIA, AUTHORIZING, AMONG OTHER THINGS, THE ISSUANCE OF INDUSTRIAL DEVELOPMENT AUTHORITY OF FAIRFAX COUNTY, VIRGINIA, HEALTH CARE REVENUE BONDS (INOA HEALTH SYSTEM PROJECT), SERIES 2018 TO BE ISSUED IN ONE OR MORE SERIES, AND APPROVAL OF THE PLAN OF FINANCING**

**WHEREAS**, the Industrial Development Authority of Fairfax County, Virginia (the “Authority”) is a political subdivision of the Commonwealth of Virginia and is authorized under Chapter 49, Title 15.2, Code of Virginia of 1950, as amended (the “Act”), to enter into loan agreements, contracts, deeds and other instruments for the purpose of financing or refinancing certain facilities, including medical facilities and other facilities owned and operated or used by organizations described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, to the end that the Authority may protect and promote the health and welfare of the inhabitants of the Commonwealth of Virginia, and to issue its revenue bonds for the purpose of carrying out any of its powers; and

**WHEREAS**, Inova Health Care Services (“Inova Health Care”) is a private, nonstock corporation duly incorporated and validly existing under and by virtue of the laws of the Commonwealth of Virginia, which operates Inova Fairfax Hospital, Inova Fair Oaks Hospital and Inova Mount Vernon Hospital, located in Fairfax County, Virginia, and Inova Alexandria Hospital, located in the City of Alexandria, Virginia; and

**WHEREAS**, Loudoun Hospital Center (“Inova Loudoun Hospital”) is a private, nonstock corporation duly incorporated and validly existing under and by virtue of the laws of the Commonwealth of Virginia, which operates Inova Loudoun Hospital, located in Loudoun County, Virginia; and

**WHEREAS**, Inova Health System Foundation (“Inova”) is the controlling member of Inova Health Care and Inova Loudoun Hospital (collectively with Inova, the “Inova Obligated Group”); and

**WHEREAS**, the Virginia Small Business Financing Authority has previously issued its Health Care Revenue Bonds (Inova Health System Project), Series 2017 (the “Series 2017 Bonds”), the Authority has previously issued its Health Care Revenue Bonds (Inova Health System Project), Series 2005C-1 and Series 2005C-2 (collectively, the “Series 2005C Bonds”) and the Authority has previously issued its outstanding Variable Rate Demand Health Care Revenue Bonds (Inova Health System Project), Series 2000A (the “Series 2000A Bonds” and, collectively with the Series 2017 Bonds and the Series 2005C Bonds, the “Refunded Bonds”) for the benefit of the Inova Obligated Group bearing interest at either fixed rates or variable rates from time to time; and

**WHEREAS**, the Authority has been requested to consider the approval of a plan of financing and refinancing (the “Plan of Financing”) which will entail the issuance by the

Authority from time to time of one or more series of its Health Care Revenue Bonds (Inova Health System Project) Series 2018 (the “Bonds”) in an aggregate principal amount not exceeding \$500,000,000 for the purpose of providing funds to: (a) construct, renovate and upgrade various new and existing facilities; (b) refund all or a portion of the Refunded Bonds; (c) fund a debt service reserve fund for the Bonds, if in the opinion of Inova at the time of the sale of the Bonds, a debt service reserve fund is warranted; (d) finance a portion of interest accruing on the Bonds; and (e) pay certain expenses incurred in connection with the authorization, issuance and sale of the Bonds; and

**WHEREAS**, Inova has described the benefits of the Plan of Financing, including the pursuing of refinancing or otherwise restructuring or conversion of the Refunded Bonds, and has requested that the Authority take action, including the issuance of revenue bonds under the Act in such amount or amounts as may be necessary to provide funds to undertake the Plan of Financing, including the refunding or restructuring or conversion of the Refunded Bonds; and

**WHEREAS**, the Board of Directors (the “Board”) of the Authority has determined that the Plan of Financing and the issuance of the Bonds, in one or more series from time to time, will accomplish the purposes of the Act and promote the safety, health, welfare, convenience and prosperity of the inhabitants of the Commonwealth of Virginia and Fairfax County and surrounding areas; and

**WHEREAS**, the Bonds may be issued in multiple series from time to time at either fixed interest rates or variable interest rates, as further described herein; and

**WHEREAS**, the Board of Supervisors of Fairfax County, Virginia, is required under federal and state law to approve the Plan of Financing and the issuance of the Bonds by the Authority; and

**WHEREAS**, there have been presented at this meeting draft copies of the following documents relating to the issuance of the Bonds:

(a) one or more Contracts of Purchase, including the Letter of Representations of the Inova Obligated Group attached thereto (collectively, the “Contract of Purchase”), by and between the Authority and Morgan Stanley & Co. LLC., as representative of the purchasers referred to in the Contract of Purchase (collectively, the “Underwriters”), relating to the Bonds;

(b) one or more Trust Agreements (collectively, the “Trust Agreement”), between the Authority and U.S. Bank National Association, as Bond Trustee (the “Bond Trustee”), securing the Bonds;

(c) one or more Loan Agreements (collectively, the “Loan Agreement”), between the Authority and Inova Health System Foundation (“Inova”), relating to the Bonds; and

(d) one or more Preliminary Official Statements or Official Statements of the Authority in connection with the offering and sale of the Bonds (collectively, the “Preliminary Official Statement”); and collectively with the

documents referred to in paragraphs (a) through (c) above, the “Financing Documents”.

**WHEREAS**, the Authority has determined that adequate provision has been made for the payment of the principal and purchase price (if applicable) of, redemption premium, if any, and interest on the Bonds; and

**WHEREAS**, the Authority hereby finds that the use of the proceeds of the Bonds to finance and refinance the Project and refund, convert or restructure the Refunded Bonds will accomplish the public purposes set forth in the Act being the promotion of the health and welfare of the residents of Fairfax County, Virginia and surrounding areas, will be in the public interest and will be consistent with the purposes of the Act.

**NOW, THEREFORE, THE BOARD OF DIRECTORS OF THE INDUSTRIAL DEVELOPMENT AUTHORITY OF FAIRFAX COUNTY, VIRGINIA DOES HEREBY RESOLVE, AS FOLLOWS:**

**Section 1.** Capitalized words and terms used in this Series Resolution and not defined herein shall have the same meanings in this Series Resolution as such words and terms are given in the Trust Agreement or the Loan Agreement.

**Section 2.** Pursuant to the authority granted to it by the Act, the Authority hereby approves the Plan of Financing and hereby authorizes the issuance of the Bonds for the purpose of providing funds to (a) construct, renovate and upgrade various new and existing facilities; (b) refund all or a portion of the Refunded Bonds; (c) fund a debt service reserve fund for the Bonds, if in the opinion of Inova at the time of the sale of the Bonds, a debt service reserve fund is warranted; (d) finance a portion of interest accruing on the Bonds; and (e) pay certain expenses incurred in connection with the authorization, issuance and sale of the Bonds.

The Bonds shall be issued as fully registered bonds in denominations permitted by the provisions of the Trust Agreement. The Bonds shall be issuable in book-entry form, as provided in the Trust Agreement. The Bonds shall bear interest and be payable as provided in the Trust Agreement. Payments of principal of and interest on the Bonds shall be made by the Bond Trustee to the registered owners of the Bonds in such manner as is set forth in the Trust Agreement.

The Bonds are hereby authorized to be issued in multiple series from time to time bearing the series designation of the year of issuance and a letter designation to be established prior to or concurrently with the issuance thereof, and may be issued in fixed or variable rates of interest.

**Section 3.** The Bonds shall be subject to optional, extraordinary optional and mandatory redemption, and in the case of Bonds bearing interest at variable rates, optional and mandatory tender for purchase at the times, upon the terms and conditions, and at the prices set forth in the Trust Agreement.

**Section 4.** The Board hereby delegates to the Chairperson and Vice-Chairperson of the Authority, subject to the limitations and guidelines contained herein, the power to determine and carry out the following with respect to the Bonds:

(A) To determine the aggregate principal amount of the Bonds; the aggregate principal amount of all series of Bonds authorized hereunder for the purposes described in the preamble to this Series Resolution, not to exceed \$500,000,000 for the purpose of providing for the refinancing, restructuring or conversion of the Refunded Bonds;

(B) To determine the maturities and maturity amounts of, and the Sinking Fund Requirements for, the Bonds, no such maturity to extend beyond April 1, 2058;

(C) To approve the sale of the Bonds in accordance with the provisions of Section 9 of this Series Resolution, provided that the purchase price for the Bonds shall not be less than ninety-seven percent (97.00%) of the par amount of the Bonds; and

(D) To determine any other terms or provisions for the Bonds deemed advisable and not in conflict with the terms and provisions of this Series Resolution.

The execution and delivery of the Trust Agreement, the Loan Agreement, and the Contract of Purchase, pursuant to Sections 6 and 7, respectively, of this Series Resolution, shall be conclusive evidence of the determinations or other actions taken by the Chairperson or Vice-Chairperson of the Authority pursuant to the authority granted in this Series Resolution.

**Section 5.** The proceeds of the Bonds shall be applied as provided in Section 2.07 of the Trust Agreement and in a closing certificate of the Authority.

**Section 6.** The forms, terms and provisions of the Trust Agreement and the Loan Agreement are hereby approved in all respects, and the Chairperson or Vice-Chairperson and the Secretary or any Assistant Secretary of the Authority are hereby authorized and directed to execute and deliver the Trust Agreement and the Loan Agreement in substantially the forms presented to this meeting, together with such changes, modifications and deletions as they, with the advice of counsel, may deem necessary or appropriate, including but not limited to changes, modifications and deletions necessary to incorporate the final terms of the Bonds as shall be set forth in the Contract of Purchase; and such execution and delivery shall be conclusive evidence of the approval and authorization thereof by the Authority.

**Section 7.** The form, terms and provisions of the Contract of Purchase are hereby approved in all respects, and the Chairperson or Vice-Chairperson of the Authority is hereby authorized and directed to execute and deliver the Contract of Purchase in substantially the form presented to this meeting, together with such changes, modifications, insertions and deletions as the Chairperson or Vice-Chairperson, with the advice of counsel, may deem necessary or appropriate; and such execution and delivery shall be conclusive evidence of the approval and authorization thereof by the Authority.

**Section 8.** The forms of the Bonds set forth in the Trust Agreement are hereby approved in all respects, and the Chairperson or Vice-Chairperson and the Secretary or any Assistant Secretary of the Authority are hereby authorized and directed to execute, by manual or

facsimile signature, as provided in such forms of the Bonds, and to deliver to the Bond Trustee for authentication on behalf of the Authority, the Bonds in definitive form, which shall be in substantially the forms presented to this meeting together with such changes, modifications and deletions as they, with the advice of counsel, may deem necessary, appropriate and consistent with the Trust Agreement; and such execution and delivery shall be conclusive evidence of the approval and authorization thereof by the Authority.

**Section 9.** The Authority hereby approves the award of the Bonds to the Underwriters at a price of not less than ninety-seven percent (97.00%) of the principal amount of the Bonds, subject to the approval thereof by the Chairperson of the Authority or, in his absence, the Vice-Chairperson of the Authority.

**Section 10.** Upon their execution in the forms and manner set forth in the Trust Agreement, the Bonds shall be deposited with the Bond Trustee for authentication, and the Bond Trustee is hereby authorized and directed to authenticate the Bonds and the Bond Trustee shall deliver the Bonds to the Underwriters against payment therefor, subject to the provisions of Section 2.07 of the Trust Agreement.

**Section 11.** The Preliminary Official Statement (including any draft final Official Statement for Series 2018 Bonds to be issued in a variable rate of interest) is hereby approved in the form presented at this meeting, and the Chairperson or Vice-Chairperson is hereby authorized to execute, on behalf of the Authority, one or more Official Statements in substantially the form of the Preliminary Official Statement (collectively, the “Official Statement”), together with such changes, modifications and deletions as the Chairperson or Vice-Chairperson, with the advice of counsel, may deem necessary or appropriate; and such execution shall be conclusive evidence of the approval thereof by the Authority. The Authority hereby approves and authorizes the distribution and use of copies of the Preliminary Official Statement, the Official Statement, the Trust Agreement, the Loan Agreement and the other Financing Documents by the Underwriters in connection with such sale.

**Section 12.** U.S. Bank National Association, Richmond, Virginia, is hereby appointed Bond Trustee for the Bonds.

**Section 13.** The Depository Trust Company (“DTC”), New York, New York is hereby appointed as the initial Securities Depository for the Bonds, with Cede & Co., a nominee thereof, being the initial Securities Depository Nominee and initial registered owner of the Bonds.

**Section 14.** Leigh Anne Arnold, Chairperson of the Authority, and Robert Surovell, Secretary of the Authority, are each hereby appointed an Authority Representative, with full power to carry out the duties set forth in the Trust Agreement and the Loan Agreement.

**Section 15.** The Chairperson, the Vice-Chairperson, the Secretary and any Assistant Secretary of the Authority alone or together are authorized and directed (without limitation except as may be expressly set forth herein) to take such action and to execute and deliver any such documents, certificates, undertakings, agreements, letters of instructions, tax regulatory agreements, escrow agreements, or other instruments, including any such documents, certificates, undertakings, agreements, letters of instructions, tax regulatory agreements, escrow

agreements, or other instruments to be entered into by the Authority in connection with the issuance of the Bonds and the redemption, restructuring, conversion, or purchase thereof and of the Refunded Bonds, as they, with the advice of counsel, may deem necessary or appropriate to effect the transactions contemplated by the Trust Agreement, the Loan Agreement, the Contract of Purchase and the Official Statement, and such execution and delivery shall be conclusive evidence of the authorization and approval thereof by the Authority.

**Section 16.** The Authority hereby recommends that the Board of Supervisors of Fairfax County, Virginia (the “Board”) approve the Plan of Financing and the issuance of the Bonds.

**Section 17.** The Chairperson or Vice-Chairperson and the Secretary or any Assistant Secretary of the Authority are hereby authorized and directed to deliver to the Board (a) a reasonably detailed summary of the comments expressed at the public hearing held in connection with the Plan of Financing, including the issuance of the Bonds and the refunding of the Refunded Bonds, (b) a fiscal impact statement concerning the Bonds in the form specified in Section 15.2-4907 of the Act and (c) a copy of this Series Resolution, which constitutes the recommendation of the Authority that the Board approve the Plan of Financing including the issuance of the Bonds.

**Section 18.** All costs and expenses in connection with the refunding or restructuring or conversion of the Refunded Bonds, including the fees and expenses of bond counsel, shall be paid from the proceeds of the Bonds to the extent permitted by law. If for any reason the Bonds are not issued, it is understood that all such expenses shall be paid by the Inova Obligated Group and that the Authority shall have no responsibility therefor.

**Section 19.** On the date hereof the Authority will hold a public hearing in connection with the Plan of Financing. The Authority hereby ratifies all actions in connection with the giving of notice for such hearing pursuant to Section 15.2-4906 of the Act and Section 147(f) of the Internal Revenue Code of 1986.

**Section 20.** The Authority shall perform such other acts and adopt such further resolutions as may be required to implement its undertakings as hereinabove set forth.

**Section 21.** This Series Resolution shall take effect immediately upon its passage.

**CERTIFICATE**

The undersigned officer of the Industrial Development Authority of Fairfax County, Virginia (the “Authority”) certifies that the foregoing is a true, correct and complete copy of a resolution adopted by a majority of the Directors of the Authority present and voting at a meeting duly called and held on June 22, 2018, in accordance with law, with a quorum present and acting throughout, and that such resolution has not been repealed, revoked, rescinded or amended but is in full force and effect on the date hereof.

Dated: June 22, 2018

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Industrial Development Authority  
of Fairfax County, Virginia



**FISCAL IMPACT STATEMENT  
FOR PROPOSED BOND FINANCING\***

Date: June 22, 2018

To the Board of Supervisors  
of Fairfax County, Virginia

Applicant: Inova Health System Foundation and Affiliates  
Facility: Health Care Facilities in Fairfax County, Including Bonds Related to  
Health Care Facilities In Fairfax County, Loudoun County and the City of  
Alexandria, Virginia

		Fairfax County	Loudoun County	City of Alexandria	Total All Jurisdictions
1.	Maximum amount of financing sought.				\$500,000,000
2.	Estimated taxable value of the facility's real property to be constructed in the locality.	0	0	0	0
3.	Estimated real property tax per year using present tax rates.	0	0	0	0
4.	Estimated personal property tax per year using present tax rates.	0	0	0	0
5.	Estimated merchants' capital tax per year using present tax rates.	0	0	0	0
6.	(a) Estimated dollar value per year of goods that will be purchased from Virginia companies within the locality.	\$44,318,263	\$28,489,194	\$0	\$72,807,457
	(b) Estimated dollar value per year of goods that will be purchased from non-Virginia companies within the locality.	\$1,643,181	\$1,056,290	\$0	\$2,699,471
	(c) Estimated dollar value per year of services that will be purchased from Virginia companies within the locality.	\$93,003,707	\$76,090,424	\$0	\$169,094,131
	(d) Estimated dollar value per year of services that will be purchased from non-Virginia companies within the locality.	\$2,969,479	\$2,429,462	\$0	\$5,398,941
7.	Estimated number of regular employees on year round basis.	0	0	0	0
8.	Average annual salary per employee.	0	0	0	0

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Industrial Development Authority  
of Fairfax County, Virginia

\* A portion of the proposed bond financing re-finances previously financed projects with approximately \$250 million remaining for new projects. Incremental economic fiscal impact is anticipated through spending on the new projects over 3 years at the average amount per year noted above.

ACTION – 3

Approval of a Memorandum of Understanding Between Fairfax County and the Fairfax-Falls Church Community Services Board Establishing Collaboration Between the Metropolitan Washington Airports Authority and Law Enforcement Agencies at the Merrifield Crisis Response Center for People Experiencing a Psychological Crisis

ISSUE:

The Fairfax-Falls Church Community Services Board (CSB) provides emergency screening for individuals detained through emergency custody (ECO), temporary detention (TDO), and for others in search of crisis intervention and support. This Memorandum of Understanding (MOU) will allow law enforcement officers (LEO) from the Metropolitan Washington Airports Authority (MWAA) within the CSB service area to have the opportunity to have the Crisis Intervention trained police officer or deputy sheriff on duty at the Merrifield Crisis Response Center (MCRC) take custody of an individual, in lieu of being charged with a minor crime, and instead of being held by that LEO through an ECO, allowing the LEO to return to patrol or other duties as assigned by MWAA. The Memorandum provides for it to be in effect until one party wishes to terminate it.

RECOMMENDATION:

The County Executive recommends approval of this Memorandum of Understanding.

TIMING:

Board action is requested on July 10, 2018, to allow for collaboration with MWAA within the CSB service area, and to serve individuals in crisis at the MCRC in the best way possible.

BACKGROUND:

Diversion First offers alternatives to incarceration for people with mental illness and/or a co-occurring substance use disorder, or for those with developmental disability, who may come into contact with law enforcement for minor crimes. Diversion First helps prevent unnecessary entry into the criminal justice system by sending people experiencing psychological crisis to assessment and treatment when jail is clearly not the appropriate place for them.

The MCRC opened on January 1, 2016, and is located within the Merrifield Emergency Services of the CSB. The MCRC is staffed with on-duty Crisis-Intervention-trained officers of both the Fairfax County Police Department and the Fairfax County Office of the Sheriff (the MCRC officers). Law enforcement officers on patrol are able to

Board Agenda Item  
July 10, 2018

transport individuals experiencing psychological crisis to the Merrifield site for assessment, hospitalization if necessary, or other stabilization services. The MCRC officers on site are able to take custody of the individuals in crisis, allowing the LEO who originally detained the individual to return to patrol. The MCRC officer may also be able to transport the individual to the facility of temporary detention.

This Memorandum of Understanding provides the legal basis and procedures for the MCRC officers to take custody from LEOs from MWAA instead of having them remain with the individual they detained at the site through the entire assessment and TDO process, which can last several hours.

FISCAL IMPACT:

None. The staffing at the MCRC has been achieved through realignment of existing resources.

ENCLOSED DOCUMENTS:

Attachment 1: MOU Between Fairfax County and the Fairfax-Falls Church Community Services Board and MWAA

STAFF:

Tisha Deeghan, Deputy County Executive  
David Rohrer, Deputy County Executive  
Laura Yager, Diversion First Project Manager, Office of County Executive  
Daryl Washington, Executive Director, Fairfax-Falls Church CSB

ASSIGNED COUNSEL:

Cynthia Tianti, Deputy County Attorney, Office of the County Attorney

**MEMORANDUM OF UNDERSTANDING BETWEEN THE FAIRFAX COUNTY  
BOARD OF SUPERVISORS, THE FAIRFAX-FALLS CHURCH COMMUNITY SERVICES BOARD,  
AND THE METROPOLITAN WASHINGTON AIRPORTS AUTHORITY**

**I. PARTIES:**

This Memorandum of Understanding (MOU) is entered into this \_\_\_\_ day of \_\_\_\_\_ 2018, by and between the Board of Supervisors of Fairfax County, Virginia (County), the Fairfax-Falls Church Community Services Board (CSB), and the Metropolitan Washington Airports Authority (Airports Authority), for the purpose of identifying responsibilities of each party to the Crisis Intervention Team Program (CIT), a collaborative mental health and criminal justice program serving **the CSB's service area** which includes the County of Fairfax (County), the City of Falls Church, the City of Fairfax, the Town of Vienna, the Town of Herndon, the Town of Clifton, the Dulles International Airport Access Highway and the Dulles Toll Road and part of Washington Dulles International Airport.

**II. TERM:**

The term of this MOU shall commence on \_\_\_\_\_. This MOU shall **continue in effect until any party undertakes the steps necessary to terminate this MOU pursuant to "Section XVI. TERMINATION WITHOUT CAUSE" herein.**

**III. AUTHORITY:**

- A. The CSB is an administrative policy community services board established by the County, the City of Fairfax and the City of Falls Church to provide appropriate services for persons with mental illness and substance abuse, or co-occurring disorders and/or those with intellectual disabilities.
- B. Pursuant to Va. Code Ann. §§ 37.2-808, -810 and 16.1-340, -340.2 because the CSB serves more than one jurisdiction, a magistrate shall specify the primary law-enforcement agency, or any other willing law enforcement agency, to provide transportation and execute the order of temporary detention **within the CSB's service area** where the person who is the subject of the emergency custody order is taken into custody. If the person has not yet been taken into custody, the primary law-enforcement agency specified by the magistrate to execute the order and provide transportation is the one from the jurisdiction where the person is then presently located within the CSB's service area. It is expressly agreed and understood that the Airports Authority's law enforcement officers will only detain and transport a person who is within the CSB's service area to the CIT Merrifield Crisis Response Center(MCRC).

- C. The (MCRC) is a licensed facility with, pursuant to this MOU, and in conjunction with the Fairfax County Police Department (FCPD) and the Fairfax County Sheriff's Office (Sheriff's Office), who will provide the MCRC with the ability to provide the level of security necessary to protect persons and others from harm and, in conjunction with the FCPD and the Sheriff's Office, is capable of providing such security. The MCRC is a facility located in Merrifield, Virginia, less than .5 miles of the INOVA Fairfax Hospital and the Northern Virginia Mental Health Institute. The MCRC will be staffed by CSB Emergency Services clinical staff who are Virginia Certified Prescreeners (CSB Prescriber). A function of the MCRC is to provide an assessment of persons in the custody of a law enforcement officer as a result of an emergency custody order (ECO) issued by a County magistrate pursuant to Va. Code Ann. §§ 37.2-808 (A) through (F) and (I) through (O), or Va. Code Ann. §§ 16.1-340 (A) through (F) and (I) through (O), or in the emergency custody of a law enforcement officer pursuant to Va. Code Ann. §§ 37.2-808 (G) or (H), or Va. Code Ann. §§ 16.2-340 (G) or (H), (paperless ECO).
- D. Va. Code Ann. §§ 37.2-808 (E) and 16.1-340(E) provides for a licensed facility, such as the CSB's MCRC within CSB Emergency Services, to enter into an MOU with the FCPD and with the Sheriff's Office to provide the requisite level of safety and security necessary to protect such person and others from harm while at the MCRC. Va. Code Ann. §§ 37.2-810 and 16.1-340.2 provides that the FCPD and the Sheriff's Office may each agree to be a willing law enforcement agency specified by a magistrate to provide transportation and execute the order of temporary detention within the CSB's service area.

#### **IV. PURPOSE:**

To establish the terms and conditions under which the MCRC will function and, in conjunction with the FCPD and the Sheriff's Office, provide the level of security necessary to protect persons and others from harm while detained at the MCRC. This MOU is only applicable to persons who are in the custody of an FCPD law enforcement officer (FCPD officer), Sheriff's deputy, or another law enforcement officer in Virginia, such as an Airports Authority law enforcement officer with which the Fairfax County Board of Supervisors has entered into this agreement with the Airports Authority (Qualified Officer), to allow a CIT trained law enforcement officer assigned to the MCRC, as defined below in Part V(A)(2), to take custody of a person detained by such Qualified Officer, as a result of an ECO issued by a County magistrate pursuant to Va. Code Ann. §§ 37.2-808 (A) through (F), and (I) through (O), or Va. Code Ann. §§ 16.1-340 (A) through (F) and (I) through (O), or in the emergency custody of a Qualified Officer pursuant to Va. Code Ann. §§ 37.2-808 (G) or (H), or Va. Code Ann. §§ 16.2-340 (G) or (H).



## **V. RESPONSIBILITIES OF CSB:**

The CSB will have sole responsibility for obtaining the appropriate licensing for the MCRC and for complying with all applicable regulations for the facility. The CSB will also have sole responsibility for maintaining the MCRC facility and staffing CSB Prescreeners and any other individual necessary to complete the evaluation process or preliminary medical screening.

## **VI. RESPONSIBILITIES DURING THE ECO PROCESS:**

Pursuant to the stated purpose of this MOU, the County, the CSB and the Airports Authority agree to the following responsibilities and procedures:

- A. When a Qualified Officer who has probable cause to believe that a person meets the criteria of Va. Code Ann. § 37.2-808(A) or, if a juvenile, Va. Code Ann. § 16.1-340(A), and requires an assessment pursuant to a magistrate-issued ECO or takes a person into emergency custody through a paperless ECO, the County, the CSB and the Airports Authority agree that the following shall occur:
  1. The Qualified Officer, as required by Va. Code Ann. § 37.2-808(J) or Va. Code Ann. § 16.1-340(J), as soon as practicable after execution of the ECO or after the person has been taken into custody pursuant to a paperless ECO, will call **703-573-5679** to notify the CSB Prescreener who is responsible for conducting the required evaluation under §§ 37.2-808 or 16.1-340 to inform the MCRC that a person has been taken into custody pursuant to §§ 37.2-808 or 16.1-340, provide the name, date of birth, and any other available information regarding the person in custody, and provide the estimated time of arrival at the MCRC of the Qualified Officer and the person in custody.
  2. The FCPD and the Sheriff's Office have separately agreed, pursuant to Va. Code Ann. §§ 37.2-810 and 16.1-340.2, to each be a willing law enforcement agency to provide transportation and execute the order of temporary detention, and the FCPD and the Sheriff's Office have each also agreed to assign to the MCRC, only an FCPD officer(s) and a deputy sheriff(s) who has successfully completed crisis intervention team training in accordance with the *Essential Elements for the Commonwealth of Virginia's Crisis Intervention Team Programs (CIT)*, the CIT Program Development Guidance, Department of Criminal Justice Services and Department of Behavioral Health Services, September 8, 2011 (updated October 1, 2014) (MCRC officer). Such MCRC officer will be available, as provided below between the hours of 11:30 a.m. one day to 8:00 a.m. the following day, seven days a week.
  3. A Qualified Officer who has a person in custody will enter the MCRC through the designated Emergency Services lower level entrance and inform the MCRC officer of his or her arrival with the person in custody.
  4. The Qualified Officer, the MCRC officer, and the CSB Prescreener will discuss the facts and circumstances leading the Qualified Officer to take the person into

emergency custody, or the reason, if known, that an ECO was issued by a County magistrate. The MCRC officer will decide, in his or her sole discretion, whether or not the MCRC officer is able at that time to take custody of that person and to provide the level of security necessary for the person in custody, based on the MCRC officer's evaluation of the needs of the person in custody, the staffing levels and needs of any other persons being served at the MCRC and/or the CSB's Emergency Services facility where the MCRC is located, including but not limited to, the safety and provision of services by staff to all persons present at either facility, and any other factors the MCRC officer believes are relevant.

B. Determination based on this evaluation:

1. Upon determination by the MCRC officer that he or she is able to provide the necessary level of security during the period of time the person in the Qualified Officer's custody will need to remain at the MCRC, the MCRC officer will take custody of that person while at the MCRC, and the Qualified Officer may leave the MCRC only after the MCRC officer has taken custody and directed that the Qualified Officer may leave the MCRC.
2. If the MCRC officer decides for any reason that the level of security the MCRC officer is able to provide is not sufficient to protect the MCRC, its staff, the person being detained, any other person at the Merrifield Center, or a member of the public, the MCRC officer will so inform the Qualified Officer who then must maintain the custody of the person detained for the entire period of time that such person is required to remain at the MCRC, and the Qualified Officer will then transport such detained person to the facility designated in the Temporary Detention Order (TDO) by the magistrate, if issued, including to obtain medical clearance for the person who is the subject of the TDO, and/or to follow any other order contained in the TDO.
3. At any time, the MCRC officer, based on his or her sole determination, may require the Qualified Officer who originally had custody of the person being detained at the MCRC, or another Qualified Officer from the same locality or entity as the original Qualified Officer, to return to the MCRC to take custody of that person for whatever reason, including, but not limited to, a change in the level of security required at the MCRC to maintain the peace and good order at the MCRC, and/or to transport the person being detained at the MCRC to the facility of temporary detention as ordered in the TDO, if issued, including to obtain medical clearance for the person who is the subject of the TDO, and/or to carry out any other order in the TDO as required.
4. Once inside the MCRC, or other such treatment room as designated by the MCRC officer or the CSB Prescreener, the CSB Prescreener will conduct the evaluation required by the Code of Virginia and provide the necessary services, if any, pursuant to the policies of the CSB, and the CSB Prescreener will conduct a preliminary medical screening as part of the pre-admission screening process.



5. It is understood by the parties that a person detained at the MCRC may require further medical evaluation or treatment at INOVA Fairfax Hospital or another hospital emergency department as deemed necessary by the CSB Prescreener, or as required by the facility of temporary detention designated in the TDO. If any transportation of the person detained at the MCRC is required for any reason, the MCRC officer will determine whether or not the MCRC officer or Qualified Officer who originally had custody of the person then detained at the MCRC, or another Qualified Officer from the same locality or entity as the original Qualified Officer, will take custody of the person detained and provide the transportation to a hospital emergency room.

#### **VII. RESPONSIBILITIES IN THE EVENT THE RESPONDENT IS RELEASED FROM THE ECO:**

The CSB Prescreener is responsible for determining whether a person does not meet, or no longer meets, the criteria set for in Va. Code Ann. §§ 37.2-808 or 16.1-340 for the person's continued detention. If the CSB Prescreener makes this determination, then the person will be immediately released from custody of any law enforcement officer at the MCRC. The person will also be released from custody at the MCRC after the eight (8) hour period during which any ECO is valid has expired.

- A. If the person who was previously in custody at the MCRC asks to be transported to the place from which he or she was originally detained, then a Peer Specialist, other CSB staff member, family member, or other individual that serves as a support mechanism may transport the previously detained person to return him or her to the place where he or she was originally detained or to another supportive environment within a reasonable distance from the place of original detention. If none of the above-listed people are available to transport the previously detained person, the CSB may provide the previously detained person with suitable public transportation.
- B. As required, the CSB Prescreener will transmit the completed ECO paperwork by facsimile to the court and/or facility of temporary detention designated by the issuing magistrate pursuant to Va. Code Ann. §§ 37.2-808(C) or 16.1-340(C).

#### **VIII. RESPONSIBILITIES DURING TDO PROCESS:**

- A. When a TDO is issued for an individual who is currently located at the MCRC, the following procedures will apply:
  1. The Prescreener who located the facility of temporary detention for the person who is the subject of the TDO will request the magistrate to transmit the TDO paperwork by facsimile to the MCRC at **703-876-1640** when the TDO is issued.
  2. The MCRC officer, or whichever Qualified Officer executes the TDO, will send a copy of the fully executed TDO to the County Attorney's Office, using only the secure facsimile number, at **703- 653-1366**. Whichever officer executes the TDO may have



the CSB Prescreener include a copy of the executed TDO in the transmission to that secure facsimile number of the Petition and Prescreen, if a copy of the executed TDO is available at the time of that transmission.

- B. When a TDO is issued for an individual who is located in a facility other than the MCRC (e.g., a hospital emergency department or hospital of temporary detention), the Qualified Officer who originally detained the person, or another Qualified Officer from the same locality or entity as the original Qualified Officer will, upon receipt of the TDO at the hospital or elsewhere by secure facsimile transmission from the magistrate or otherwise, execute the TDO and transport that person to the temporary detention facility designated on the TDO, including obtaining any medical clearance for the person who is the subject of the TDO, and/or to carry out any other order in the TDO as required.

**IX. FEES OR COSTS ASSOCIATED WITH ECO/TDO AND CUSTODY PROCESS:**

- A. Nothing herein shall be constructed to obligate the County, the CSB, the FCPD, the Sheriff's Office, or the locality or entity of the Qualified Officer for the payment of any fees, expenses, or damages incurred during the ECO/TDO processes.
- B. Any and all fees or costs associated with the medical screening and assessment services or any treatment provided during the ECO process or during a TDO period of detention shall be paid by the Commonwealth as provided in Va. Code Ann. §§ 37.2-804 or 16.1-347.

**X. MCRC SECURITY:**

- A. Any Qualified Officer who has a person in his or her custody is responsible for the safety and security of that person and the general public, until and unless that Qualified Officer has placed the person in his or her custody into the custody of another Qualified Officer, the MCRC officer, or another law enforcement officer.
- B. The primary duty of the MCRC officer will be to maintain the safety and control of the person in his or her custody at all times, and to assist, when possible, in maintaining the safety of all CSB staff and individuals receiving services at the MCRC and the Merrifield Center. All other facility-related security will be provided by the private security personnel hired by the CSB to maintain the peace and good order of the Merrifield Center, where the MCRC is located. CSB will also be responsible for maintaining the Merrifield Center, including the security of the building and access to the building. At the discretion of the CIT Coordinator in conjunction with the CSB Director of Emergency Services, and in coordination with the FCPD and/or the Sheriff's Office, other law enforcement services may be provided by the FCPD and/or the Sheriff's Office or others.
- C. When the MCRC officer has a person in his or her custody, the MCRC officer will have the sole discretion to allow another law enforcement officer or CSB staff members into the area where the MCRC officer has a person in custody, to ensure the ability of the MCRC officer to maintain the safety and control of the person he has in custody and

those in the immediate area. Any family, witness, or significant other who comes to the Merrifield Center will enter through the Emergency Services entrance, and will only be allowed into the area where the MCRC officer has a person custody if allowed to do so by the MCRC officer, at his or her sole discretion, after the MCRC officer's evaluation of the need for such person to be in the area where the MCRC officer has a person in custody and, if such person is needed, then the totality of the circumstances and any safety concerns then present may still prohibit such person from being in the area where the MCRC officer has a person in custody.

**XI. CSB EMERGENCY SERVICES:**

The CSB agrees to provide the MCRC with a CSB Prescreener on a full-time basis during the hours of operation of the MCRC, from 11:30 a.m. one day to 8:00 a.m. the following day, and seven days a week. Law enforcement officers can contact CSB Emergency Services at **703-573-5679**, 24 hours a day, seven days a week.

**XII. REQUIREMENTS FOR THE CUSTODY OF THE DETAINED PERSON TO BE PLACED WITH THE MCRC OFFICER:**

- A. An MCRC officer **MUST** be on duty and present at the MCRC.
- B. The MCRC officer will make an initial risk assessment of potential aggression or violence of the person detained by a Qualified Officer to determine the current capability of the MCRC officer to take custody of the person detained by a Qualified Officer.
- C. The MCRC officer will list the client number and/or name of any detained person who remains in the custody of the Qualified Officer who originally detained and/or brought the person to the MCRC in the "Log of Referrals Declined from the MCRC" and mark one of the following:
  - a. MCRC officer at capacity
  - b. Other (Explain)
- D. When the MCRC officer declines to take custody of the detained person, then the Qualified Officer who originally detained the person and/or brought the person to the MCRC (original Qualified Officer), or another Qualified Officer from the same locality or entity as the original Qualified Officer, must remain at the Merrifield Center to have the evaluation required by the Code of Virginia performed by a CSB Prescreener.
- E. When the MCRC officer determines that it is not required that the Qualified Officer who originally detained the person and/or brought the person to the MCRC remain at the MCRC, that Qualified Officer may leave the MCRC; however, that Qualified Officer who originally detained the person and/or brought the person to the MCRC, or another Qualified Officer from the same locality or entity as the original Qualified Officer, may need to report to the MCRC to assist with the security or safety of the MCRC or to transport the detained person to another facility as necessary.



### **XIII. MEDICAL ASSESSMENT:**

- A. At the time of the initial call to the MCRC and upon arrival at the MCRC, the CSB Prescreener will initiate a clinical triage process that includes questions regarding medical issues. Non-emergency medical conditions will be deferred.
- B. Any sign or report of the following by or regarding the person detained will require immediate consultation with a licensed CSB psychiatrist on duty, and following any recommendations, including calling 911, as needed:
  - 1. Chest pains
  - 2. Significantly Elevated or Depressed Blood Pressure
  - 3. Difficulty Breathing
  - 4. Dizziness
  - 5. Pulse outside of normal range
  - 6. Reported/suspected overdose
  - 7. Temperature outside normal range
  - 8. Suspected/reported head injury
  - 9. Untreated medical condition with potential immediate harm
  - 10. Dehydration/malnourishment
  - 11. Other suspected health condition that may be serious in nature
- C. If further medical assessment is recommended, a MCRC officer will transport or have a Qualified Officer from the same locality or entity as the original Qualified Officer report to the MCRC to transport the detained person to INOVA Fairfax Emergency Department or another designated emergency department. As necessary, any available person or staff at the MCRC will call 911 to respond to treat the detained person with emergency medical needs who shall remain in the custody of the MCRC officer or a Qualified Officer from the same locality or entity as the original Qualified Officer and who, along with the detained person, will be transported by emergency medical equipment and staff to the closest available hospital capable of handling the person's medical needs. Such MCRC officer or a Qualified Officer from the same locality or entity as the original Qualified Officer must maintain such custody of the person until a TDO has been issued, executed, and the person is in the custody of the detention facility named in the TDO, or until the person is otherwise released from the custody of such officer.

- D. If the detained person must be transported to INOVA Fairfax ED or another emergency department prior to the completion of a Prescreening evaluation, the CSB Prescreener will provide the preadmission screening assessment as soon as possible thereafter.

#### **XIV. MODIFICATION OF THIS MOU:**

This MOU shall not be modified without the agreement of the parties as to such modification, which shall be in writing and signed by an authorized representative of each party. No modification shall take effect until thirty (30) days after both parties have signed such written agreed modification.

#### **XV. SUSPENSION OF SERVICES:**

The County and/or the CSB each retain the right to suspend services in the event any of the following occur:

- A. Airports Authority policies and procedures are found by the County or the CSB to conflict with the policies and procedures of the County and /or the CSB;
- B. The FCPD and/or the Sheriff's Office, for whatever reason, reduces or eliminates its commitment to provide MCRC officer(s) in accordance with their respective MOUs with the County and/or the CSB;

Services shall remain suspended until the event causing the suspension is cured, the parties agree in writing to a modification of the MOU, or this MOU is terminated.

#### **XVI. TERMINATION WITHOUT CAUSE:**

Any party may at any time, and for any reason, unilaterally terminate this MOU by giving written notice to the other parties specifying the termination date, which shall be no less than thirty (30) days from the date such notice is received. Such written notice to terminate shall be made to a party by delivery to the person for another party whose signature appears below, or their duly appointed successor, at their usual place of business.

#### **XVII. INSURANCE:**

- A. Each party to this MOU will, to the extent provided by law, be responsible for the acts and omissions of its respective employees while such employees are acting within the scope of their employment. Each party will also be responsible, to the extent provided by law, for any compensation or benefits owed to that party's employee under the Virginia Worker's Compensation Act.
- B. The County is self-insured as is the FCPD and the CSB. The County also self-insures all vehicles owned by the County, and provides protection against liability arising from the operation of County-owned vehicles. The acts and omissions of persons employed by the

County are governed by the Fairfax County Board of Supervisors' Indemnification and Representation Resolution, as amended.

- C. The Sheriff's Office, the Sheriff, Deputy Sheriffs and any other employees of the Sheriff and/or the Sheriff's Office, are covered under the self-insurance and/or any other insurance provided by the Commonwealth of Virginia to the Sheriff's Office, the Sheriff, Deputy Sheriffs and any other employees of the Sheriff and the Sheriff's Office. Liability protection for the Fairfax Sheriff, her appointees and employees is provided by the Commonwealth of Virginia pursuant to the Code of Virginia, § 2.2-1839.
- D. MWAA's employees are employees of the Metropolitan Washington Airports Authority and are insured while such employees are acting within the scope of their employment through the Airports Authority's insurance policies.

**XIII. COMPLIANCE WITH APPLICABLE LAWS:**

The parties agree to comply with all federal, state and local statutes, ordinances, regulations, and guidelines now in effect or hereafter adopted, in the performance of the description of services set forth herein. The County, the CSB and the Airports Authority each represent that it has all necessary licenses and permits required to conduct its services within the CSB's service area and will furnish copies to any other party upon request. Further, the County, the CSB and the Airports Authority shall at all times observe all health and safety measures and precautions necessary for the safe performance of its obligations hereunder.

**METROPOLITAN WASHINGTON AIRPORTS AUTHORITY**

By: Joe E. Potter  
John E. Potter  
President and Chief Executive Officer

Date: 5/9/18

AND

By:  \_\_\_\_\_

Bryan Norwood  
Interim Chief of Police

Date: 4-11-18 \_\_\_\_\_

Fairfax County, Virginia

By: \_\_\_\_\_

Bryan J. Hill  
County Executive

Date: \_\_\_\_\_

AND

Fairfax-Falls Church Community Services Board

By: \_\_\_\_\_

Daryl Washington  
Acting Executive Director

Date: \_\_\_\_\_

Board Agenda Item  
July 10, 2018

ACTION – 4

Approval of a Draft Board of Supervisors' Meeting Schedule for Calendar Year 2019

ISSUE:

Board approval of a draft meeting schedule for January through December, 2019.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve the draft meeting schedule for January through December, 2019.

TIMING:

The Board should take action on July 10, 2018, in order that accommodations to implement this calendar can proceed in advance of January.

BACKGROUND:

The *Code of Virginia*, Section 15.2-1416, requires the governing body to establish the days, times and places of its regular meetings at the annual meeting, which is the first meeting of the year. Therefore, the schedule for the entire 2019 calendar is presented for Board approval. The section further states that “meetings shall be held on such days as may be prescribed by resolution of the governing body but in no event shall less than six meetings be held in each fiscal year.”

Scheduled meetings may be adjourned and reconvened as the Board may deem necessary, and the Board may schedule additional meetings or adjust the schedule of meetings approved at the annual meeting, after notice required by Virginia law, as the need arises.

At the first meeting of the Board of Supervisors in January, staff will bring the 2019 meeting calendar to the Board for formal adoption.

ENCLOSED DOCUMENTS:

Attachment 1: January-December, 2019 Draft Schedule for Board of Supervisors' Meetings and Potential 2019 Tuesday dates for Board Committee Meeting

STAFF:

Catherine A. Chianese, Assistant County Executive and Clerk to the Board of Supervisors

# DRAFT

## **2019 Board of Supervisors Meeting Schedule**

January 22, 2019	June 11, 2019
February 5, 2019	June 25, 2019
February 19, 2019	July 16, 2019
March 5, 2019	July 30, 2019
March 19, 2019	September 24, 2019
April 9, 2019 <ul style="list-style-type: none"> <li>9:30 to 4:00 p.m. Board Meeting</li> <li>4:00 p.m. Budget Public Hearing</li> </ul>	October 15, 2019
April 10 – April 11, 2019 <ul style="list-style-type: none"> <li>1:00 p.m. – Budget Public Hearings</li> </ul>	October 29, 2019
April 30, 2019 (Budget Markup)	November 19, 2019
May 7, 2019	December 3, 2019
May 21, 2019	

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## **Potential 2019 Tuesday Dates for Board Committee Meetings**

(Listed below are Tuesday dates that would be available for scheduling of Board Committee meetings in 2019)

January 8	June 4
January 15	June 18
January 29	July 9
February 12	July 23
February 26	September 10
March 12	September 17
March 26	October 8
April 2	October 22
May 14	November 26
	December 10

The Legislative Committee of the Board meets on Fridays at 4 p.m. during the General Assembly session. Those dates for 2019 are: January 18, January 25, February 1, February 8, February 15, and March 1. The Budget pre mark-up meeting is scheduled on Friday, April 26.



ACTION - 5

Approval of Funding for, and Authorization to Amend an Agreement with the Virginia Department of Transportation for Expedited Review of Locally Funded Transportation Projects

ISSUE:

Increases in the number of transportation improvements being implemented by the County have resulted in an increased workload for the Virginia Department of Transportation's (VDOT) staff. On May 28, 2015, County and VDOT staff entered into an agreement in which the County provided supplemental funding for VDOT staff and/or consultants to review construction plans for County implemented projects using a structured review process that included an expedited timeframe for reviews. Funding under this agreement has been expended, and staff seeks to amend the agreement to continue this plan review process.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve a resolution (Attachment 1), authorizing the Director of the Department of Transportation to amend a Plan Review Agreement (PRA) with VDOT, substantially in the form of Attachment 2, for the expedited review of locally funded projects.

TIMING:

Board approval is requested on July 10, 2018, to allow for continued improved VDOT review times for County projects.

BACKGROUND:

Over the last several years, the County has funded, designed and constructed an increased number of transportation projects. As part of this process, VDOT must review and approve projects that are administered by the County to ensure the designs meet VDOT standards. The increase in projects being submitted to VDOT for review affected VDOT's ability to review projects within a time frame needed by the County. In 2015, the County and VDOT entered an agreement that provides a formal timeframe in which projects are reviewed and returned to the County. In return, the County provided supplemental funding for the timely review by VDOT of the projects listed in Appendix C of this agreement.

For plans submitted during calendar years 2013 and 2014, prior to the initial agreement, a representative sample indicates plan reviews were completed by VDOT in an average of 58 calendar days, and a median of 53 calendar days per review (most projects

require several reviews). Since this agreement was initiated in early 2015, plan review times (using a representative sample of the total number of plans submitted) have decreased to an average of 44 calendar days, and a median of 38 calendar days. Therefore, the average plan review time frame has been reduced by 14 calendar days and the median by 15 calendar days per review, which indicates this agreement is providing a benefit to the County.

The funding included in the revised agreement will cover costs incurred through FY 2018 and estimated costs for all of FY 2019. County staff has reviewed the accuracy of charges to the projects that were submitted to VDOT. Staff has also reviewed the submission and return dates of all projects to assess VDOT's compliance with the schedules set forth in the agreement. Although VDOT has not met the return time of 30 days stated in the agreement, they have reduced return time from an average of 58 to 44 calendar days per review. Staff will continue to work with VDOT to reach the goal of 30 days return time on plan review.

FISCAL IMPACT:

Staff requests Board approval for an additional \$709,000 to cover FY2018 through FY2019 expenses in the proposed amendment, and funding has been identified in Fund 40010 County and Regional Transportation Projects (2G40-097, and construction reserve). There is no impact to the General Fund.

ENCLOSED DOCUMENTS:

Attachment 1: Resolution to Amend a Plan Review Agreement with the Virginia Department of Transportation

Attachment 2: Revision 2 of the Plan Review Agreement (including Related Appendices)

STAFF:

Robert A. Stalzer, Deputy County Executive

Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)

Eric Teitelman, Chief, Capital Projects and Traffic Engineering Division (CPTED), FCDOT

W. Todd Minnix, Chief, Transportation Design Division (TDD), FCDOT

Todd Wigglesworth, Chief, Coordination and Funding Division (CFD), FCDOT

Joe LaHait, Debt Coordinator, Department of Management and Budget

Ray Johnson, Transportation Planner, CFD, FCDOT

ASSIGNED COUNSEL:

Joanna Faust, Assistant County Attorney

## **Fairfax County Board of Supervisors Resolution**

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Fairfax County Government Center in Fairfax, Virginia, on Tuesday, July 10, 2018, at which meeting a quorum was present and voting, the following resolution was adopted:

**A RESOLUTION FOR THE BOARD OF SUPERVISORS OF THE COUNTY OF  
FAIRFAX, VIRGINIA  
FOR THE AMENDMENT OF AN AGREEMENT FOR  
Fairfax County Plan Review and Pre-Scoping  
PROJECT**

**WHEREAS**, in accordance with the Commonwealth Transportation Board construction allocation procedures, it is necessary that a resolution be received from the sponsoring local jurisdiction or agency requesting the Virginia Department of Transportation (VDOT) to establish a project(s), if not already established, in the County of Fairfax.

**NOW, THEREFORE, BE IT RESOLVED**, that the County of Fairfax requests the Commonwealth Transportation Board to establish a project(s), if not already established, for the implementation of, Fairfax County Plan Review and Pre-Scoping project ("Project").

**BE IT FURTHER RESOLVED THAT**, the County of Fairfax hereby agrees to provide its share of the local contribution, in accordance with the Project Administration Agreements ("PAA", attached) and associated financial documents (Appendix A), executed pursuant to this Resolution.

**BE IT FURTHER RESOLVED THAT**, the Board of Supervisors of Fairfax County, Virginia, authorizes the Director of Fairfax County's Department of Transportation to execute the amendment, on behalf of the County of Fairfax, the PAA with the Virginia Department of Transportation for the implementation of the Project to be administered by VDOT.

Adopted this 10<sup>th</sup> day of July 2018, Fairfax, Virginia

ATTEST \_\_\_\_\_  
Catherine A. Chianese  
Clerk to the Board of Supervisors

**APPENDIX A – Revision 2**

Project: Plan Review and Scoping (UPC 106621)

Locality: Fairfax County

Project Identification and Funding	
Scope:	Fairfax County Plan Review and Preliminary Engineering
Locality Project Manager Contact Info: Todd Minnix, 703-877-5749, <a href="mailto:wesley.minnix@fairfaxcounty.gov">wesley.minnix@fairfaxcounty.gov</a>	
Department Project Coordinator Contact Info: Bud Siegel, 703-259-2118, <a href="mailto:bud.siegel@vdot.virginia.gov">bud.siegel@vdot.virginia.gov</a>	

Project Costs			
Phase	Estimated Project Costs	Funding Advanced to VDOT	Funds Retained by Locality
Preliminary Engineering	\$1,859,000	\$700,000	\$0
Right-of-Way & Utilities	0	0	\$0
Construction	0	0	\$0
Total Estimated Cost	\$1,859,000	\$700,000	

Project Financing				
FY 2016	FY 2017	FY 2018	FY 2019	Total
Local Funds	Local Funds	Local Funds	Local Funds	Aggregate Allocations
\$340,000	\$360,000	\$715,000	\$444,000	\$1,859,000

Payment Schedule				
FY2015	FY2016	FY2018	FY2019	Total
\$250,000	\$450,000	\$715,000	\$444,000	\$1,859,000
As of 4/18/2018 VDOT has received \$700,000 from the County. The next payment (FY2018) will be received following approval of this agreement revision.				

This attachment is certified and made an official attachment to this document by the parties of this agreement

\_\_\_\_\_  
 Authorized Locality Official and date  
  
Tom Biesiadny  
 Typed or printed name of person signing

\_\_\_\_\_  
 Authorized VDOT Official and date  
  
Ray Burkhardt  
 Typed or printed name of person signing

## APPENDIX B – Revision 1

### Project: Plan Review and Scoping (UPC 106621) Locality: Fairfax County

Project Scope	
<b>Work Description:</b>	<b>Fairfax County Plans Reviews</b>
This agreement is to serve as guidelines for the expedited process of the Department reviewing transportation improvement plans for transportation Projects that require a VDOT Land Use Permit or County Administered Projects that do not have an executed Project Administration Agreement.	
Locality Project Manager Contact Info: Todd Minnix, 703-877-5749 Department Project Coordinator Contact Info: Bud Siegel, 703-259-2118	

Detailed Scope of Services
<ol style="list-style-type: none"><li>1. The DEPARTMENT will perform plan reviews and/or conduct pre-scoping activities as may be requested by the COUNTY for the following types of Fairfax County administered Projects:<ol style="list-style-type: none"><li>A. County funded, County administered Projects that require issuance of a VDOT Land Use Permit.</li><li>B. County administered Projects that require review by VDOT, but do not have an executed Project Administration Agreement with the DEPARTMENT.</li></ol></li><li>2. The DEPARTMENT will complete plan reviews pursuant to this Agreement and return comments to the COUNTY within 30 days from receipt by the DEPARTMENT.</li><li>3. Fairfax County will provide supplement funding as identified in the Appendix A for VDOT staff time for expedited reviews of these two types of Projects. Additional funding in future fiscal years is dependent on the DEPARTMENT's performance in meeting the parameters in Appendix B.</li><li>4. The DEPARTMENT shall:<ol style="list-style-type: none"><li>A. No later than 30 days following the end of each quarter, submit a statement to the County, documenting the activities performed, number of hours spent, and costs incurred on activities conducted pursuant to this Agreement during the reporting period.</li><li>B. Provide explanation and / or documentation for any costs in response to requests of the COUNTY pursuant to paragraph (A) upon request by the COUNTY or representatives of the COUNTY.</li><li>C. Provide the COUNTY a request for funding, for the next fiscal year, in advance of the COUNTY's budget cycle. The DEPARTMENT will provide the COUNTY documentation requested for ALL charges to the funding provided to the COUNTY in Appendix A.</li><li>D. Provide in writing requests for additional funding outside the DEPARTMENT's budget cycle if the funds provided above are anticipated to be insufficient to complete the project(s) in Appendix C. Such additional funding shall be subject to approval of the Board of Supervisors or their designee in accordance with the Transportation Funding Allocation Policy passed March 29, 2011.</li></ol></li><li>5. The COUNTY shall:<ol style="list-style-type: none"><li>A. Review the quarterly report submitted by the DEPARTMENT, and<ol style="list-style-type: none"><li>1. Advise the DEPARTMENT no later than 15 working days following its receipt whether the costs incurred are acceptable, and</li><li>2. Within the 15-day review period, request the DEPARTMENT to provide supplemental justification for any costs deemed questionable as a result of its review.</li></ol></li></ol></li><li>6. The agreement shall have no term limit and shall remain in effect until terminated in accordance with conditions outlined in the Project Administration Agreement.</li></ol>

This attachment is certified and made an official attachment to this document by the parties of this agreement

\_\_\_\_\_  
Authorized Locality Official and date

\_\_\_\_\_  
Tom Biesiadny  
Typed or printed name of person signing

\_\_\_\_\_  
Authorized VDOT Official and date

\_\_\_\_\_  
Ray Burkhardt  
Typed or printed name of person signing

	FOCUS Proj #	FOCUS Sub- Proj #	Name <small>Yellow - Projects that are Substantially Complete Orange - Project Under Construction</small>
1	2G40-009	002	Gallows Road/Prosperity Median
2	2G40-012-000		Route 1 Widening
3	2G40-015-000		Rte 123/Braddock - Interim At Grade Improvement
4	2G40-028	003	Walker Rd Road Diet
5	2G40-028	004	Fox Mill Rd/Monroe St
6	2G40-028	005	Gambrill Rd/Pohick Rd
7	2G40-028	006	Hunter Mill Rd/Mystic Meadow Rd Roundabout
8	2G40-028	007	North Kings Hwy Median
9	2G40-028	008	Old Dominion Dr/Spring Hill Rd - Phase II
10	2G40-028	009	Old Dominion Dr/Towlston Rd
11	2G40-028	010	Westmoreland/Haycock
12	2G40-028	011	Arlington Blvd/Graham Rd
13	2G40-028	012	Route 123/Jermantown Rd
14	2G40-028	014	Old Dominion/Bellview
15	2G40-029-000		Eskridge Rd Extension
16	2G40-050-000		Braddock/Roanoke River Intersection
17	2G40-053	001	Braddock/Danbury/Wakefield Chapel
18	2G40-060-000		Benefit Cost Analysis/Concept Plan Estimates
19	2G40-062-000		Jone Branch Connector Final Design
20	2G40-064-000		Balls Hill - Nicole Maria to Lewinsville
21	2G40-066-000		Rte 123/Kelley Drive - Drainage Improvements
22	2G40-067-000		Giles Run Park Road
23	2G40-076-000		Seven Corners Cost Estimates
24	2G40-085	-002	Sunrise Valley SUP - Reston Pkwy to Soapstone Drive north side
25	2G40-085	-003	New Dominion Pkwy Bike Lanes - Reston Pkwy to Ffx Cnty Parkway
26	2G40-085	-004	Sunrise Valley Dr Bike Lanes - Reston Pkwy to Ffx Cnty Parkway
27	2G40-085	-005	Reston Bike Share Expansion - Phase II Silver Line Expansion
28	2G40-085	-006	Town Center Parkday Bike Lanes
29	2G40-086	-002	Herndon Implemented
30	2G40-086	-003	Sunrise Valley Drive/Monroe Street
31	2G40-086	-004	Van Buren Street/Worldgate Drive
32	2G40-086	-005	Henrdon Parkway/Henrdon Metro Entrance North
33	2G40-086	-006	Dulles Toll Road/Monroe Street
34	2G40-086	-007	Innovation Center to Arrowbrook
35	2G40-086	-008	Dulles Toll Road/Centreville Road
36	2G40-086	-009	Henrdon Parkway - W&OD Trall to Fairbrook Drive
37	2G40-086	-010	Chandon Park to Worldgate Drive
38	2G40-086	-011	Coppermne Crossing to Merrybrook
39	2G40-086	-012	Innovation Avenue/Rock Hill Road
40	2G40-086	-013	Van Buren Street - W&OD to Monroe St Bridge
41	2G40-086	-014	Monroe St - Dulles Toll Toad to Monroe Manor Missing Links
42	2G40-086	-015	Sunrise Valley Dr - Fairfax County Parkway to Innovation Station
43	2G40-086	-016	Innovation Station North Side Neighborhood Access
44	2G40-086	-017	Dullet Toll Road/Fairfax County Parkway
45	2G40-086	-018	Sunset Hills/Fairfax County Parkway
46	2G40-087	-002	Balls Hill Road & Old Dominion Drive
47	2G40-087	-003	Burke Rd from Aplomado Dr to Parakeet Dr
48	2G40-087	-004	Electric Ave & Cedar Lane NB

	<b>FOCUS Proj #</b>	<b>FOCUS Sub- Proj #</b>	<b>Name</b>
49	2G40-087	-005	Fairfax County Pkwy -I95 to Telegraph Rd
50	2G40-087	-006	Route 50 & Waples Mill Road
51	2G40-087	-007	RI395 SB Off Ramp to Rt 236
52	2G40-087	-008	Rt 236 at Beauregard St Channelize
53	2G40-087	-009	Cherokee Ave at Rte 236
54	2G40-087	-010	Backlick Road and Industrial Road
55	2G40-087	-011	Georgetown Pike & Rte 123
56	2G40-087	-012	Hunter Mill Road and Lawyers Road
57	2G40-087	-013	Kirby Road and Old Dominion Road
58	2G40-087	-014	Lewinsville Road and Spring Hill Road
59	2G40-087	-015	Silverbrook Road and Lorton Road
60	2G40-087	-016	Chowan Ave at Route 236
61	2G40-087	-017	Route 286 Left Turn Lane @ John Kingman
62	2G40-087	-018	Backlick Road Connection
63	2G40-088	-002	Baron Cameron Ave & Lake Fairfax Drive
64	2G40-088	-003	Chesterbrook Wilky & Kirby Rd - Golden Ct
65	2G40-088	-004	Chesterbrook Wilky & Golden Ct - Maddux Ln
66	2G40-088	-005	Chesterbrook Wilky & Chesterbrook Vale Ct
67	2G40-088	-006	Glade Dr Wilky & Middle Creek - Glade Bank Wy
68	2G40-088	-007	Glade Dr Wilky & Colts Neck Rd-Reston Pkwy
69	2G40-088	-008	Shipplett Blvd On Road Bike Lanes
70	2G40-088	-009	Sunset Hills Road Walkway
71	2G40-088	-010	McWhorter Place SUP
72	2G40-088	-011	Creek Crossing Pedestrian Enhancements
73	2G40-088	-012	Old Courthouse Rd Pedestrian Enhancements
74	2G40-088	-013	Pleasant Forest Trail
75	2G40-088	-014	Chain Bridge Rd Walkway
76	2G40-088	-015	Baron Rd Walkway
77	2G40-088	-016	Chstrbrk Rd S-Chstrfrd Wy-Chstrbrk VI Ct
78	2G40-088	-017	Kirby Rd Wilky N-Birch St to Ivy H Dr
79	2G40-088	-018	Kirby Rd Wilky N - Ivy H Dr to Corliss
80	2G40-088	-019	Cinder Bed Rd Bikeway - Ffx Cnty Pkwy to Franc-Springfield Metro Sta
81	2G40-088	-020	Compton Rd Walkway - Pump Station to Rte 28
82	2G40-088	-021	Compton Rd Walkway - Mt. Olive Rd to Cub Run Stream Valley Tr
83	2G40-088	-022	Franconia Rd @ Westchester St Median Refuge
84	2G40-088	-023	Hooes Rd Walkway - Ox Road to Furnace Road
85	2G40-088	-024	Idylwood Road Walkway - Norwalk St southward
86	2G40-088	-025	Margarity Road Walkway - Lusby Pl to Peabody Dr
87	2G40-088	-026	Mt Vernon Memorial Hwy Trail - Route 1 to Grist Mill Park
88	2G40-088	-027	N Shore Dr Walkway - N Shore Ct to Sycamore Valley Ct
89	2G40-088	-028	Sleepy Hollow Rd Walkway - Columbia Pike to Route 7
90	2G40-088	-029	Van Dorn St Pedestrian & Bike Improv. - Oakwood Rd to Alexandria CL
91	2G40-088	-030	Arlington Blvd Walkway - Blake Lane to Prosperity Avenue
92	2G40-088	-031	Mason Neck Trail - Gunston Rd - Route 1 to Potomac River
93	2G40-088	-032	Monroe St Walkway - Dulles Toll Rd Bridge to East Park Dr

	FOCUS Proj #	FOCUS Sub-Proj #	Name
94	2G40-088	-033	Little River Turnpike Corridor Bike Improvements
95	2G40-088	-034	Lanier Street Walkway - Exeter Street to Carrico Drive
96	2G40-088	-035	Ffx Cnty Pkwy Bicycle Wayfinding
97	2G40-088	-036	Georgetown Pike Trail Phase IV
98	2G40-088	-037	Old Telegraph Road Walkway
99	2G40-088	-038	Hunter Village Dr Walkway (Wentworth to Flax
100	2G40-088	-039	Route 50 Walkway (Arlington Blvd. to Gallows Rd)
101	2G40-088	-040	Browne Academy Trail (Edgehill to Dewey)
102	2G40-088	-041	Chain Bridge Rd Walkway (Granite to Eaton)
103	2G40-088	-042	Hunter Village Dr. Bike Parking (N. near Old Keene Mill Rd)
104	2G40-088	-043	Idylwood Road Walkway (Hillside to Idylwood Ct)
105	2G40-088	-044	Lisle Ave Walkway (Griffith to Sportsman)
106	2G40-088	-045	Old Dominion Dr Walkway (Spring Hill to Duchess)
107	2G40-088	-046	Old Keene Mill Bike Shoulders (Lee Chapel to Spring)
108	2G40-088	-047	Olney Rd Walkway (Magarity to Lisle)
109	2G40-088	-048	Peabody Dr Walkway (Magarity to Lisle)
110	2G40-088	-049	Peace Valley Ln Walkway (Magarity to Lisle)
111	2G40-088	-050	Silverbrook Rd Walkway (Oak Chase to Retail Ctr)
112	2G40-088	-051	Soapstone Dr Walkway (S Lakes to Snakeden)
113	2G40-088	-052	Braddock Rd Walkway (Pleasant Valley to Pleasant Forest)
114	2G40-088	-053	Crestview Dr Walkway (Eldridge to Builders)
115	2G40-088	-054	Creastview Dr Walkway (Ferris to Builders)
116	2G40-088	-055	Georgetown Pike Crosswalk (Helga to Liganore)
117	2G40-088	-056	Georgetown Pike Walkway (Georgetown Pike to Difficult Run)
118	2G40-088	-057	Great Falls St Walkway (Grande to Haycock)
119	2G40-088	-058	Idylwood Rd Walkway (Friendship to Stephen Mari)
120	2G40-088	-059	Ingleside Ave Walkway (McLean Cc to Church Hill)
121	2G40-088	-060	Redd Rd Walkway (Idylwood to Pimmit)
122	2G40-088	-061	Scotts Run Stream Valley Trail
123	2G40-088	-062	Rock Hill Rd Walkway (Sterling to Astoria)
124	2G40-088	-063	Reston Town Center Bike Lanes
125	2G40-088	-064	Rolling Valley Trail (Rolling Valley P-n-R to Pohick Stream Valley)
126	2G40-088	-065	Belle View Blvd/GW Parkway
127	2G40-088	-066	Franconia-Springfiled Pkwy Trail Connection
128	2G40-088	-067	Holmes Rund Stream Valley Trail
129	2G40-088	-068	Dolley Madison Walkway (Potomac School Rd to Georgetown Pike)
130	2G40-088	-069	Kirby Road Walkway (Mori to Chesterbrook)
131	2G40-088	-070	Chesterbrook Rd Walkway (N Albemarle to Forest)
132	2G40-088	-071	Chesterbrook Rd Walkway (Forest to N 41st St)
133	ST-000003	003	Leesburg Pike/Glen Carlyn Rd
134	ST-000003	007	Dolley Madison/Great Falls/Lewinsville
135	ST-000003	008	Lewinsville Rd/Balls Hill Rd
136	ST-000003	012	Vale Rd and Flint Hill Rd
137	ST-000003	014	Braddock Rd/Guinea Rd
138	ST-000003	015	Braddock Rd/Wakefield Chapel Rd
139	ST-000003	016	Leesburg Pike/Baron Cameron/Springvale



	FOCUS Proj #	FOCUS Sub-Proj #	Name
140	ST-000003	017	Leesburg Pike/Patrick Henry Drive
141	ST-000003	018	Leesburg Pike/Colvin Run Rd
142	ST-000003	020	Rolling Road/Burke Rd
143	ST-000003	021	Burke Center Parkway Walkway
144	ST-000003	022	Burke Commons Rd Walkway
145	ST-000003	024	Dolley Madison Blvd/Churchill Rd
146	ST-000003	025	Georgetown Pike/Balls Hill
147	ST-000003	026	Great Falls St/Haycock Rd
148	ST-000003	027	Leesburg Pike/Lewinsville Rd
149	ST-000003	028	Chain Bridge Rd/Tennyson Dr
150	ST-000003	029	Centreville Rd @ Dulles Toll Rd Phase II
151	ST-000003	030	Elmdale Rd Walkway
152	ST-000003	031	Hunter Mill Rd/Sunrise Valley Drive
153	ST-000003	032	Hunter Village Drive
154	ST-000003	033	Lees Corner Rd Walkway
155	ST-000003	034	Lewinsville Rd Walkway - Altimira to Woodhurst
156	ST-000003	035	Lewinsville Rd Walkway - Snow Meadow to Elsinore
157	ST-000003	036	Lewinsville Rd Walkway - Windyhill to Scotts Run
158	ST-000003	037	Powhatan St. Walkway
159	ST-000003	038	Raymond Ave Walkway
160	ST-000003	039	Mt Vernon Highway Walkway
161	ST-000003	040	Old Dominion Dr/Whittier Ave
162	ST-000003	041	Old Mill Rd Walkway
163	ST-000003	042	Prosperity/Hilltop
164	ST-000003	043	Soapston Dr Walkway - Sunrise Valley to Hunters Green
165	ST-000003	044	Westmoreland/Old Chesterbrook
166	ST-000003	045	Wiehle Ave Walkway - Chestnut Grove to North Shore
167	ST-000003	046	Westmoreland St. Crosswalks Bonheim, Southridge, Lemon
168	ST-000003	047	Franconia Rd Crosswalks Ridge View, Wilton
169	ST-000003	048	Brich St. Sidewalk - Grove Ave to Falls Church
170	ST-000003	049	Dead Run Dr Sidewalk - Carper to Congress Ln
171	ST-000003	050	School St Sidewalk - N. Kings to Pine Grove
172	ST-000003	062	Old Dominion/Linway/Birch
173	ST-000003	063	Idyllwood Road Sidewalk
174	TS-000001	002	Soapstone Dr. On Road Bike Lanes
175	TS-000001	003	Bobann Drive Bikeway
176	TS-000001	004	Sherwood Hall Lane Road Diet
177	TS-000001	008	Reston Bike Share - Sunset Hills Road
178	TS-000001	010	Reston/Tysons Bike Share - Market St. & Town Center Parkway
179	TS-000001	014	Reston Bike Share - Spectrum Center
180	TS-000001	015	Tysons Bike Share - Tysons Corner Metro
181	2G40-032-000		Old Centreville/Braddock Emer. Pre-Emption
182	2G40-033-000		Route 29 Widening Phase II Trail
183	2G40-034	001	CDC McLean Signal Replacement
184	ST-000021	009	Kurtz Road/Calder Rad Intersection Improvement
185	2G25-097	000	Jefferson Manor Transportation Imp. (Phase IIIA)
186	5G25-028-00A		Wiehle Ave Phase II Street Acceptance
187	5G25-028-00B		Wiehle Ave Phase III Street Acceptance
188	5G25-034-000		Spring Hill Rd
189	5G25-036-000		Annandale Rd/Kerns Rd
190	5G25-037-000		Ffx County Pkway/West Ox Road
191	5G25-038-000		Ffx County Pkway/Sunrise Valley Dr
192	5G25-039-000		South Kings Hwy/Harrison Lane

	FOCUS Proj #	FOCUS Sub- Proj #	Name
193	5G25-044-000		Braddock Rd/Backlick Rd
194	5G25-046-000		Zion Drive
195	5G25-047-000		Rte 7/Towlston Rd
196	5G25-049-000		Ffx Cnty Pkway - Rte 29 to Braddock Rd
197	5G25-050-000		Poplar Tree Road
198	5G25-052-000		Route 29 Widening Phase III
199	5G25-053-000		Lorton Road
200	5G25-054-000		Cinder Bed Road
201	5G25-059	-002	Braddock Rd/Roberts Road NB RT Lane
202	5G25-059	-003	North Chambliss St./Beurgard St
203	5G25-059	-004	Lorton Rd/Lorton Market Rd WB LTL
204	5G25-059	-005	Silverbrook Rd/Southrun Rd EB LTL
205	5G25-059	-006	Fort Hunt Rd/Collingwood Rd LT Lanes
206	5G25-059	-007	Old Courthouse Rd/Besley Rd Realign
207	5G25-059	-008	Rte 123/Great Falls/Lewinsville
208	5G25-059	-009	Shields Ave Alignment Imp
209	5G25-060	-002	Braddock Rd/Olley Lane Ped Intersection
210	5G25-060	-003	Burke Lake Rd/Coffer Woods Rd
211	5G25-060	-004	Lakepointe Dr/Guinea Rd
212	5G25-060	-005	Highland St/Backlick Rd/Amherst Dr
213	5G25-060	-006	Annadale Rd/Graham Rd Ped Intersection
214	5G25-060	-007	Backlick Rd/Edsall Rd Ped Intersection
215	5G25-060	-008	Columbia Pike/John Marr Dr Intersection
216	5G25-060	-009	Columbia Pike/Gallows Rd Intersection
217	5G25-060	-010	Pohick Rd/Southrun Rd Intersection
218	5G25-060	-011	Hooes Rd/Newington Forest Ave Int
219	5G25-060	-012	Rte 50/Sullyfield Cr/Centerview Dr Int
220	5G25-060	-013	Centreville Rd/Machen Rd Ped Int
221	5G25-060	-014	OldKeeneMillRd Walk - Carrleigh-west
222	5G25-060	-015	DolleyMad SW - Chain Br Rd
223	5G25-060	-016	DolleyMad SW - OldDom-Beverly Ave
224	5G25-060	-017	SunriseValley SW - RiverBirch-Legacy Ct
225	5G25-060	-018	SouthVanDorn-Franconia Rd Walkway
226	5G25-060	-019	Backlick Road Walkway- South of Barta
227	5G25-060	-020	BacklickRd SW - Kandel-Cindy Lane
228	5G25-060	-021	BacklickRd SW - Industrial-Hechinger
229	5G25-060	-022	Braddock Walkway - Calbern-Curbside Ln
230	5G25-060	-023	ChainBridgeRd Walkway-Courthouse-Sutton
231	5G25-060	-024	EdsallRd Walk - TimberForest-Edsall Gard
232	5G25-060	-025	EdsallRd Walk - Cherokee-Edsall Gard
233	5G25-060	-026	FairLakesBI Walk - Stringfellow-Retail
234	5G25-060	-027	FleetDr Walk - Yadkin-Franconia
235	5G25-060	-028	GlenForestDr Walk - Rte7-Glen Forest ES
236	5G25-060	-029	GunstonCove Walk - Cranford-Amsterdam
237	5G25-060	-030	LeeChapelRd Walk - Britford-Burke Lake
238	5G25-060	-031	MedfordDr Walk - Annandale HS-Davian

	FOCUS Proj #	FOCUS Sub- Proj #	Name
239	5G25-060	-032	PostForestDr Walk - Legato-west
240	5G25-060	-033	PostForestDr Walk - Legato-GovtCtrPkw
241	5G25-060	-034	QuanderAve Walk - West Pot HS-Quandor ES
242	5G25-060	-035	RiversideRd Walk - Elkin-Pennsylvania
243	5G25-060	-036	RollingRd Walk - Roxbury-Tuttle
244	5G25-060	-037	RugbyRd Walk - Misty Cr Ln-Alder Woods
245	5G25-060	-038	SeminaryRd Walk - Magnolia-Colfax
246	5G25-060	-039	SouthLakesDr Walk-Greens-Sunrise Valley
247	5G25-060	-040	SunriseVallDr Walk-Hitchcock-ColtsBrook
248	5G25-060	-041	TelegraphRd - Broadmoor-Hayfield HS
249	5G25-060	-042	GreatFallsSt Walk - I66-NorthWestSt
250	5G25-060	-043	LittleRiverTnpk Walk - RobertsAve
251	5G25-060	-044	LittleRiverTnpk Walk - Hillbrook-LitRivRun
252	5G25-060	-045	LittleRiverTnpk Walk-ColumbiaRd-Mayhunt
253	5G25-060	-046	WakefieldChapel Walk-Braddock-Stahlway
254	5G25-060	-047	Backlick Rd HAWK & Sidewalk Lynbrook ES
255	5G25-061	-002	1010- Richmond Hwy SB @ Collard St
256	5G25-061	-003	1011-Richmond Hwy SB @ Holley Hill
257	5G25-061	-004	1018- Richmond Hwy SB @ Sherwood Hall
258	5G25-061	-005	1027- Richmond Hwy SB @ Brevard Ct
259	5G25-061	-006	1001- Richmond Hwy SB @ Huntington Ave
260	5G25-061	-007	1002- Richmond Hwy SB @ Belle Haven Tw
261	5G25-061	-008	1004- Richmond Hwy SB @ North Kings Hwy
262	5G25-061	-009	1043 - Richmond Hwy SB @ Armistead Rd EB
263	5G25-061	-010	1045 - Richmond Hwy SB @ Dutchman Dr
264	5G25-061	-011	1046 - Richmond Hwy SB @ Fern Edge Ln
265	5G25-061	-012	1048 - Richmond Hwy SB @ Fern Edge Ln
266	5G25-061	-013	1049 - Richmond Hwy NB @ Fern Edge Ln
267	5G25-061	-014	1051 - Richmond Hwy NB @ Woodside Ln
268	5G25-061	-015	1079 - Richmond Hwy NB @ Highland Ln
269	5G25-061	-016	1085 - Richmond Hwy NB @ Russell Rd
270	5G25-061	-017	1086 - Richmond Hwy NB @ Martha St
271	5G25-061	-018	1087 - Richmond Hwy NB @ Shannons Green
272	5G25-061	-019	1094 - Richmond Hwy NB @ Fordson Rd
273	5G25-061	-020	1099 - Richmond Hwy NB @ Collard St
274	5G25-061	-021	1107 - Richmond Hwy NB @ Mt Eagle Dr
275	5G25-061	-022	Rte. 1 - Arlington Dr. REX Shelter
276	5G25-061	-023	Rte. 1 - Belford Dr. REX Shelter
277	5G25-061	-024	Rte. 1 - Frye Rd Ph II REX Shelter
278	5G25-061	-025	Rte. 1 - Ladson Lane REX Shelter
279	5G25-061	-026	Rte. 1 - Lockheed Drive REX Shelter
280	5G25-061	-027	Rte. 1 - Sacramento Drive REX Shelter
281	5G25-061	-028	Route 1 at Fairhaven-Quander
282	5G25-061	-029	Route 1 at N. Kings/Shields
283	5G25-061	-030	Route 1 at Fairview
284	5G25-061	-031	Rte 1 Sidewalk - SB Franklin to Dawn
285	5G25-061	-032	Route 1 at Beacon Hill Drive
286	5G25-061	-033	Rte 1 Sidewalk - SB Collard to Holly Hill
287	5G25-061	-034	Route 1 at Boswell Ave

	FOCUS Proj #	FOCUS Sub-Proj #	Name
288	5G25-061	-035	Route 1 at Fordson Road
289	5G25-061	-036	Rte 1 Sidewalk - NB Sherwood to Kings
290	5G25-061	-037	Route 1 at Sherwood Hall Lane
291	5G25-062	-002	Bluemont Way at Discovery St/Explorer St/Library St.
292	5G25-062	-003	Sunset Hills Road at Old Reston Avenue
293	5G25-062	-004	Explorer Street at New Dominion Parkway
294	5G25-062	-005	Sunrise Valley Drive at Edmund Halley Drive
295	5G25-062	-006	Sunset Hills Rd at Discovery St. Pedestrian Bridge Walkway Extended
296	5G25-062	-007	Reston Pkwy at Dulles Toll Rd WB On-Ramp
297	5G25-062	-008	Reston Pkwy at Dulles Toll Rd EB Off and On-Ramps
298	5G25-062	-009	Sunset Hills Rd at EB Off-Ramp/Ffx Cnty Parkway Trail
299	5G25-062	-010	Dulles Toll Rd EB Off-Ramp - Ffx Cnty Parkway Trail
300	5G25-062	-011	Bluemont Way Walkway - Discovery St Ped Bridge to Reston Parkway
301	5G25-062	-012	Sunset Hills SUP - Town Center Parkway to Reston Town Ctr Sta Entrance
302	5G25-062	-013	Town Center Parkway - W&OD Trail
303	5G25-062	-014	Sunrise Valley Drive at Reston Association Entrance
304	5G25-062	-015	Town Center Parkway Bike Lanes - Sunset Hills to Baron Cameron
305	5G25-062	-016	Sunrise Valley Bike Lanes - Ffx Cnty Pkwy - Reston Pkwy
306	5G25-063	-002	WakefieldChapRdBike Pulleye-NVCC
307	5G25-063	-003	LakeBraddockRd - Burke-Rolling
308	5G25-063	-004	BurkeRoadBike - MillCove-VRE
309	5G25-063	-005	WestOxRd Trail - Penderbrook-Rt50
310	5G25-063	-006	Elm St/Dolley Madison Int Bike
311	5G25-063	-007	Govt Center Bicycle Demonstration
312	5G25-063	-008	WestmorelandBike - Kirby-Arlington
313	5G25-063	-009	WestmorelandBike - N of Rosemont
314	ST-000017	001	Colts Neck Rd Trail - South Lakes to Hunter Woods Shopping Ctr
315	ST-000018	001	Silverbrook Rd/Hooes Rd Intersection Imp.
316	ST-000019	001	Rte 29 Walkway
317	ST-000020	001	Hunter Mill Road Walkway
318	ST-000021	003	Lewinsville Rd Median
319	ST-000021	004	Spring Hill Rd - Old Dominion to Pettit Ct
320	ST-000021	005	Turner Ave Walkway - Williamsburg Pond to Haycock
321	ST-000021	008	Westmoreland St. Walkway - Temple to Chesterbrook
322	ST-000021	009	Beulah Rd Walkway - Abbotsford to Clarks Crossing - Phase I
323	ST-000021	009	Beulah Rd Walkway - Abbotsford to Clarks Crossing - Phase II
324	ST-000021	011	Fox Mill Rd Walkway - Ffx Pkwy to Mill Heights
325	ST-000021	012	Glade Dr. Walkway - Colts Neck to Shire Ct
326	ST-000021	015	Reston Ave Walkway - Southington to Shaker Dr
327	ST-000021	017	Sunset Hills Rd Walkway - W&OD to Michael Faraday
328	ST-000021	018	Silverbrook Rd Walkway - Southrun to Monacan
329	ST-000021	020	Silverbrook Rd Walkway - Silverthorn to Bayberry Ridge
330	ST-000021	021	Sydenstricker Rd Walkway - Briarcliff to Galgate
331	ST-000021	022	Ashburton Ave Walkway - at Cedar Run
332	ST-000021	023	Telegraph Rd Walkway - South Kings to Lee District Park
333	ST-000021	024	Backlick Rd Walkway - Wilburdale to Braddock
334	ST-000021	025	Backlick Rd Walkway - Opposite Wilburdale
335	ST-000021	026	Columbia Pike Walkway - Downing to Lincolnia
336	ST-000021	027	Columbia Pike Walkway - Maple Ct. to Blair
337	ST-000021	028	Columbia Pike Walkway - Gallows to Annandale Church

	FOCUS Proj #	FOCUS Sub-Proj #	Name
338	ST-000021	030	Lincolnia Rd Walkway - Deming to Chambliss
339	ST-000021	031	Montrose St Walkway - Braddock to Grafton
340	ST-000021	032	Tyler St Walkway - Columbia Pike to Lake St
341	ST-000021	033	Annandale Rd Walkway - Brice to Falls Church City Limits
342	ST-000021	034	Courthouse Rd Walkway - Chain Br. To Plantation Ln
343	ST-000021	035	Edgelea Rd Walkway - Oleander to Courthouse
344	ST-000021	038	Oak Street Walkway - Phase I
345	ST-000021	038	Oak Street Walkway - Phase II
346	ST-000021	040	Franconia Rd Walkway - N side Governor's Hill to Telegraph
347	ST-000021	042	Franconia Rd Walkway - S side Governor's Hill to Telegraph
348	ST-000021	043	Rte 7 Walkway - Row Street
349	ST-000021	044	Rte 7 Walkway - Rio Drive to Glenmore Dr
350	ST-000021	045	Rte 7 Walkway - Culmore Shopping Ctr to Church St
351	ST-000021	046	Rte 7 Walkway - Columbia Pike Interchange
352	ST-000021	047	Rte 7 Walkway - Gorham St to S. 14th St.
353	ST-000021	048	Rte 7 Ped Imp - Seven Corners to Juniper Lane
354	ST-000021	049	Rte 7 Walkway - 1st Christian Church to Falls Church
355	ST-000021	050	Rte 7 Walkway - Seminary Rd streetscapes
356	ST-000036	-002	KirbyRd Walk - ChesterbrookES-ChesterRd
357	ST-000036	-003	NorthWest St Walk - GreatFalls-Brilyn
358	ST-000036	-004	FranconiaRd Walk - Norton-GovernPond
359	ST-000036	-005	SilverbrookRd Walk - Hooes-SouthCntyHS
360	ST-000036	-006	CenterRd Walk - WSpringHS-GardenRd
361	ST-000036	-007	ChichesterLn Walk-Cherry-DayLilly
362	ST-000036	-008	FortHuntRd Walk - BelleView-BelleVES
363	ST-000036	-009	FoxMillRd Walk - FfxPkwY-RestonPkwY
364	ST-000036	-010	KirbyRd Walk - ChesterbrookES-Halsey
365	ST-000036	-011	KirbyRd Walk - Halsey-Franklin
366	ST-000036	-012	LeeHwy Walk - CircleTowers-Vaden
367	ST-000036	-013	PleasantValRd Walk-Elklick-DomPower
368	ST-000036	-014	TelegraphRd Walk - RoseHill-Pike
369	ST-000036	-015	WestmorelandSt Walk-Kirby-Lemon
370	ST-000036	-016	OldMtVernonRd Walk - MtVerHwy-Westgate
371	ST-000036	-017	Telegraph Rd Walkway - Pike to Wilton
372	ST-000036	-018	Telgraph Rd Walk - Wilton - Farmington
373	ST-000036	-019	ChichesterLn at Lismore Walkway
374	ST-000037	-002	GMU-City-Vienna Metro Bike Route
375	ST-000037	-003	Burke VRE Connector Ph IV
376	ST-000037	-004	Cross County Trail Upgrades
377	ST-000037	-005	Route 50 Trail
378	ST-000037	-006	Franc-Spring Metro VRE Bicycle Park
379	ST-000037	-007	NVCC Medical Ed Campus
380	ST-000037	-008	Vienna Metro Bicycle Connectivity
381	TF-000008	001	Reston Transit Center Trail
382	TS-000020	-001	Lorton Arts Access Road
383	ST-000022	002	Sunset Hills Rd - Reston Center to Town Center Parkway
384	ST-000022	004	Sunset Hills Rd @ Target EB Bus Stop
385	ST-000024	007	Kurtz Rd/Calder Road Intersection Improvement
386	ST-000025	002	Wiehle Ave Walkway
387	ST-000025	003	Beulah Rd Walkway - Abbotsford to Clarks Crossing
388	ST-000026	002	Florence Lane Walkway
389	ST-000027	002	Old Columbia Pike - Elmdale Rd

	FOCUS Proj #	FOCUS Sub-Proj #	Name
390	2G25-075-000		McLean Utilities
391	CR-000001	004	Commerce St @ BBT Bank Bus Stop
392	CR-000002	001	Annandale Streetscape - Columbia Pike - Fire Station
393	CR-000004	001	McLean Streetscapes Phase III
394	CR-000005		Richmond Highway Wayfinding Signs
395	2G40-135-000		Richmond Highway BRT
396	2G40-087	-014	Spring Hill Road/Lewinsville Road
397	2G40-087	-015	Lorton Road/Silverbrook Road
398	2G40-079-000		Shirley Gate Road
399	2G40-028	-007	North Kings Hwy
400	2G40-057	-001	Lincoln Street
401	2G40-119-000		Richmond Hwy Widening (Pohick Road to N of Occoquan River Bridge
402	2G40-035	-006	Route 7/Route 123 Interchange
403	2G40-035	-001	Route 7 Widening (123 to I-495)
404	2G40-035	-007	Route 123
			Projects that are Substantially Complete
			Projects Under Construction

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 Authorized Locality Official and Date

Tom Biesiadny  
 Printed Name of Person Signing

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 Authorized VDOT Official and Date

Ray Burkhardt  
 Printed Name of Person Signing

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ACTION - 6

Approval of a Resolution Endorsing Projects Being Submitted for: State Funding Through the Commonwealth Transportation Board's FY2020-25 Smart Scale Program; and the United States Department of Transportation's Better Utilizing Investments to Leverage Development FY2018 Discretionary Grant Program

ISSUE:

Board approval of a resolution endorsing projects (Attachment 1) is requested, so that the Department of Transportation (FCDOT) can apply for funding through the Commonwealth Transportation Board's (CTB) FY2020–FY2025 Smart Scale Program, and the United States Department of Transportation's (USDOT) FY 2018 Better Utilizing Investments to Leverage Development (BUILD) Discretionary Grant Program. FCDOT staff is recommending ten projects throughout the County for Smart Scale and one project for BUILD.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve a Resolution (Attachment 1), endorsing 11 Fairfax County transportation projects for submission to the FY2020-FY2025 Smart Scale, and FY 2018 BUILD Programs.

TIMING:

Board approval is requested on July 10, 2018, to meet the submission deadlines of August 1, 2018, for Smart Scale, and July 18, 2018, for BUILD.

BACKGROUND:

**Smart Scale**

During the 2014 Session, the General Assembly passed HB2, which directed the development of a prioritization process (now called Smart Scale) for projects funded by the CTB. The Smart Scale process was used for the first time in the development of the FY2016-FY2021 Six-Year Improvement Program (SYIP).

The Smart Scale process considers congestion mitigation, economic development, accessibility, safety, land use, and environmental quality to rank candidate projects. The CTB can weigh these factors differently in each of the Commonwealth's transportation districts. Smart Scale requires congestion mitigation to be weighted highest in Northern Virginia. The Weighting Framework for Northern Virginia, as well as the Hampton Roads and Fredericksburg areas, is:



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- Congestion Mitigation (45%)
- Land Use Coordination (20%)
- Accessibility (15%)
- Environmental Quality (10%)
- Economic Development (5%)
- Safety (5%)

This process is used for both the Statewide High-Priority Projects and Transportation District Grant which are programs (or sources of funding) of the Smart Scale effort. Project applications must be submitted for consideration for funding by August 1, 2018. Staff has been working with VDOT, DRPT, and other regional partners to submit pre-applications for County projects to ensure strong final applications for our projects.

The Smart Scale process requires that projects be ranked in priority order, if an applicant is submitting more than one project. The table below contains projects (described in Attachment 2) recommended by staff for Smart Scale consideration for FY2020-FY2025, with not to exceed amounts for "Smart Scale Request". In some cases, the not to exceed "Smart Scale Request" is higher than the "Balance Needed" shown in Attachment 2. This allows staff the flexibility to request more than the "Balance Needed", if cost estimates increase between now and the submission deadline.

Several factors have been used to prioritize projects for Smart Scale submission, and in determining the requested amount. These factors include:

- Previously submitted through Smart Scale, or ability to address Smart Scale criteria.
- Project readiness.
- Leverages other funds (e.g. Northern Virginia Transportation Authority (NVTA) regional funding, local, or private funds).
- Transportation Priorities Plan (TPP) implementation timelines.
- Geographic balance in funding allocations.
- Previous average award.

Rank	Project	Smart Scale Request (\$000)
1	Richmond Highway Widening (Napper Road to Mount Vernon Highway)	\$90,000
2	Fairfax County Parkway Widening (Route 29 to Route 123)	\$60,000
3	Soapstone Drive Extension/Dulles Toll Road Overpass	\$50,000



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4	Richmond Highway Bus Rapid Transit (BRT, Huntington Metrorail Station to Fort Belvoir)	\$50,000
5	Frontier Drive Extension	\$85,000
6	Braddock Road Improvements Phase I (Wakefield Chapel Road to Ravensworth Road)	\$70,000
7	Braddock Road Improvements Phase II (Guinea Road to Wakefield Chapel Road)	\$70,000
8	Davis Drive Extension/ Dulles Toll Road Overpass	\$30,000
9	Seven Corners Ring Road (Phase 1A/Segment 1A)	\$75,000
10	Route 28 Northbound Widening (McLearen Road to Route 50)	\$20,000

These projects were included in the TPP adopted by the Board in January 2014, or previous transportation priority documents. Staff recommends submitting all projects in Attachment 1 for Smart Scale consideration by August 1, 2018.

**BUILD**

On April 27, 2018, the United States Department of Transportation (USDOT) issued a Notice of Funding Opportunity for the FY 2018 Better Utilizing Investments to Leverage Development (BUILD) discretionary grant program. The BUILD discretionary grant program replaces the USDOT's long-standing Transportation Investment Generating Economic Recovery (TIGER) discretionary grant program. While the programs are similar, BUILD grants give preference to projects located in rural areas across the United States. BUILD encourages local governments to proactively raise new sources of revenue with a new criterion to evaluate local activities to generate additional non-Federal revenue for transportation infrastructure.

BUILD applications will be evaluated based on the following merit criteria: safety, economic competitiveness, quality of life, environmental protection, state of good repair, innovation, partnership, and additional non-Federal revenue for infrastructure investments.

Eligible projects include, but are not limited to: (1) Highway, bridge, or other road projects; (2) public transportation projects; (3) passenger and freight rail transportation projects; (4) port infrastructure investments (including inland port infrastructure and land ports of entry); and (5) intermodal projects.

The FY 2018 Appropriations Act appropriated \$1.5 billion to be awarded by USDOT for the BUILD Transportation program. The FY 2018 BUILD grants are for capital investments in surface transportation infrastructure and are to be awarded on a competitive basis for projects that will have a significant local or regional impact. The FY 2018 Appropriations Act requires that FY 2018 BUILD Transportation Discretionary

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Grants funds are only available for obligation through September 30, 2020. All FY 2018 BUILD funds must be expended by September 30, 2025.

Formal Board authorization is requested for FCDOT to apply for FY 2018 BUILD grant program funds. FCDOT staff reviewed criteria for awarding BUILD funding and recommends submitting an application for the Frontier Drive Extension, previously approved by the Board in the Transportation Priorities Plan on January 28, 2014. The following is a brief description of the project:

*Frontier Drive Extension - \$25.0 million*

The Frontier Drive Extension from Franconia-Springfield Parkway to Loisdale Road provides greater mobility between Loisdale Road, the Medical Campus at Northern Virginia Community College, and the Franconia-Springfield Transit Center. The project makes improvements to the circulation system around the Franconia-Springfield Transit Center, which provides improved access to both the Washington Metropolitan Area Transit Authority Metrorail System and Virginia Railway Express commuter rail service. It also modifies the ramps of Franconia-Springfield Interchange in Springfield, thereby reducing congestion on Loisdale Drive. It provides on-street parking along Frontier Drive, as well as pedestrian and bicycle facilities. The project will provide significant benefits to the site selected for the headquarters of the Transportation Security Administration (TSA). Below is a summary of funding requirements for the project:

<b>Total Project Estimate</b>	<b>\$116.1 million</b>
BUILD Grant Funding	\$ 25.0 million
NVTA 70%	\$ 27.0 million
NVTA 30% (programmed, and serves as BUILD Local Match	\$ 8.0 million
Match	
<i>Remaining Requirement:</i>	<i>\$ 56.1 million</i>

FCDOT will continue to pursue additional grant awards to support the remaining funding needed for this project.

FISCAL IMPACT:

Requests for state funding for FY2020-FY2025 Smart Scale program are shown by project in the table above. No cash match is required for these requests. The BUILD Local Cash Match is met through the current approved NVTA 30% allocation of \$8 million. Staff anticipates requesting NVTA regional, and Smart Scale program funds to address remaining funds needed on Frontier Drive. There is no impact to the General Fund.

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ENCLOSED DOCUMENTS:

Attachment 1 – Resolution of Endorsement of Projects Being Submitted for FY2020-  
FY2025 Funding through the Commonwealth Transportation Board Smart Scale, and  
FY2018 United States Department of Transportation BUILD Funding Programs  
Attachment 2 – List of Projects with Descriptions

STAFF:

Robert A. Stalzer, Deputy County Executive  
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)  
Todd Wigglesworth, Chief, Coordination and Funding Division, FCDOT  
Eric Teitelman, Chief, Capital Projects and Operations Division, FCDOT  
Todd Minnix, Chief, Transportation Design Division, FCDOT  
Gregg Steverson, Chief, Transportation Planning Division, FCDOT  
Karyn Moreland, Section Chief, Capital Projects and Operations Division, FCDOT  
Noelle Dominguez, Transportation Planner, Coordination and Funding Division, FCDOT  
Brent Riddle, Transportation Planner, Coordination and Funding Division, FCDOT  
Ray Johnson, Transportation Planner, Coordination and Funding Division, FCDOT

## **Fairfax County Board of Supervisors Resolution**

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Fairfax County Government Center of Fairfax, Virginia, on Tuesday, July 10, 2018, at which meeting a quorum was present and voting, the following resolution was adopted:

### **RESOLUTION**

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Fairfax County, Virginia, hereby approves the submission to the Virginia Department of Transportation requests for funding from the Commonwealth of Transportation Board's Six-Year Improvement Program for FY2020-FY2025 Smart Scale, and the United States Department of Transportation Better Utilizing Investments to Leverage Development FY2018 Funding Programs for the following projects in amounts not to exceed:

#### **Smart Scale**

- Richmond Highway Widening (Napper Road to Mount Vernon Highway) - \$90,000,000
- Fairfax County Parkway Widening (Route 29 to Route 123) - \$60,000,000
- Soapstone Drive Extension/Dulles Toll Road Overpass - \$50,000,000
- Richmond Highway Bus Rapid Transit (BRT, Huntington Metrorail Station to Fort Belvoir) - \$50,000,000
- Frontier Drive Extension - \$85,000,000
- Braddock Road Improvements Phase I (Wakefield Chapel Road to Ravensworth Road) - \$70,000,000
- Braddock Road Improvements Phase II (Guinea Road to Wakefield Chapel Road) - \$70,000,000
- Davis Drive Extension/Dulles Toll Road Overpass - \$30,000,000
- Seven Corners Ring Road (Phase 1A/Segment 1A) - \$75,000,000
- Route 28 Northbound Widening (McLearen Road to Route 50) - \$20,000,000

#### **BUILD**

- Frontier Drive Extension - \$25,000,000

Adopted this 10<sup>th</sup> day of July 2018, Fairfax, Virginia

ATTEST \_\_\_\_\_  
Catherine A. Chianese  
Clerk to the Board of Supervisors

ATTACHMENT 2

List of Recommended Projects for Smart Scale (VDOT SYIP FY2020-FY2025), and BUILD (FY2018) Programs Submission

PROJECT	PROJECT DESCRIPTION	CURRENT COST ESTIMATE (\$000)	SECURED FUNDING ROUNDED (\$000)	BALANCE NEEDED BASED ON CURRENT ESTIMATE (\$000)	SMART SCALE REQUEST UP TO (\$000)
Richmond Highway Widening (Napper Road to Mount Vernon Memorial Highway)	The Richmond Highway widening project is 2.9 miles in length and is located between Mt. Vernon Memorial Highway (south) and Napper Road. This project will provide a six lane facility complementing the widened Richmond Highway segment from Telegraph Road to Mt. Vernon Memorial Highway. This project includes both pedestrian and bicycle facilities and provisions to facilitate future bus rapid transit.	\$215,000	\$178,000	\$37,000	\$90,000
Fairfax County Parkway Widening (Route 29 to Route 123)	The project will widen Fairfax County Parkway (Route 286) from just north of Route 29 to the Route 123 interchange from the existing four-lane, divided roadway to a six-lane, divided roadway for a length of approximately 5.5 miles. The purpose of the project is to relieve congestion and improve safety by increasing capacity along Route 286 and making improvements to intersections along the corridor, including innovative intersection treatments and access management. The project will remove the traffic signal at Burke Centre Parkway. This will provide a free-flowing corridor from Roberts Parkway to Route 50, a distance of 9 miles. The project includes improvements to the Route 123 interchange to increase capacity for the high volume of traffic entering and exiting Route 286 from/to Route 123 south. In addition, the project will improve or provide pedestrian and bicycle amenities along the project corridor.	\$127,000	\$83,100	\$44,000	\$60,000

ATTACHMENT 2

Soapstone Drive Extension/Dulles Toll Road Overpass	The Soapstone Connector is a new roadway, approximately one-half mile long between Sunrise Valley Drive and Sunset Hills Road, in Reston. The project is located west of the Wiehle-Reston East Metrorail Station and would include a new (bridge) crossing the Dulles Toll Road, the Dulles International Airport Access Highway, and the Metrorail Silver Line. The new roadway extension will include pedestrian and bicycle accommodations.	\$170,000	\$139,600	\$30,400	\$50,000
Richmond Highway Bus Rapid Transit (BRT, Huntington Metrorail Station to Fort Belvoir)	The project was recommended by the Route 1 Multimodal Alternatives Analysis. A recommendation from the study included a phased approach, which was to implement median running BRT in the near-term between Huntington in Fairfax County to Woodbridge in Prince William County and expanding Metrorail to Hybla Valley, Fairfax County in the long-term. In May 2015, the Fairfax County Board of Supervisors endorsed phases 1 and 2 of the preferred transit alternative which was to implement median running BRT from the Huntington Metrorail Station to Fort Belvoir.	\$505,000	\$305,000	\$200,000	\$50,000
Frontier Drive Extension	The Frontier Drive Extension will extend Frontier Drive from its terminus south of the Franconia-Springfield Parkway to Loisdale Road, including improved access to the Franconia-Springfield Metrorail Station and braided ramps to and from the Franconia-Springfield Parkway. Provide on-street parking along Frontier Drive as well as pedestrian and bicycle accommodations.	\$116,100	\$35,000	\$81,100	\$85,000
Braddock Road Improvements Phase I (Wakefield Chapel Road to Ravensworth Road)	Braddock Road Project Phase I will increase capacity, improve bicycle and pedestrian access/safety, and provide transit access along Braddock Road from Wakefield Chapel Road to Ravensworth Road. Improvements to intersection operation includes: optimizing signal operation, adding turn lanes, and implementing access management. Improvements to bicycle and pedestrian access include adding missing links to pedestrian facilities along Braddock Road with a shared-use path in eastbound and westbound directions. These will tie-into existing side street sidewalks to complete missing connections.	\$75,000	\$7,500	\$67,500	\$70,000

## ATTACHMENT 2

	Signalized at-grade pedestrian crossing and improvement to existing underpass Cross County Trail. Braddock Road supports commercial, retail, institutional, commuter, residential traffic and provides a connection to the I-495 Capital Beltway (I-495 Beltway, and the I-495 Express Lanes), and connects Centreville, George Mason University, and Annandale, and gives access to Fairfax Center, Fairfax City, and Vienna (activity centers).				
Braddock Road Improvements Phase II (Guinea Road to Wakefield Chapel Road)	The Braddock Road Project Phase II (Guinea Road to Wakefield Chapel Road) will increase capacity, provide access management, improve bicycle and pedestrian access/safety, and provide better access to transit facilities along Braddock Road from Guinea Road to Ravensworth Road. Intersection improvements at 10 intersections include additional turn lanes and signal optimization. Access management restricts turns, eliminates traffic signals, and improves safety. Phase II multi-modal improvements include: Addition/upgrade of all asphalt paths and sidewalks along Braddock Road with a shared-use path in both directions. These will tie-into existing side street sidewalks to complete missing connections; five signalized at-grade pedestrian crossings two of which will be "HAWK" signals; one bicycle and pedestrian overpass across Braddock Road between the Red Fox Drive (East) intersection and Burke Lake Road/Woodland Way. Braddock Road supports commercial, retail, institutional, commuter, residential traffic and provides a connection to the I-495 Capital Beltway (I-495 Beltway, and I-495 Express Lanes), and connects Centreville, George Mason University, and Annandale, and provides access to Fairfax Center, Fairfax City, and Vienna (regional activity centers).	\$75,000	\$7,500	\$67,500	\$70,000

ATTACHMENT 2

Davis Drive Extension/Dulles Toll Road Overpass	This project will be a new connection between Sunrise Valley Drive in Fairfax County and Innovation Avenue in Loudoun County over the Dulles Toll Road. The new connection will be located just west of the Innovation Center Metrorail Station. The project will include a new four-lane divided road and bridge, and pedestrian facilities on both sides. The proposed roadway would provide an additional crossing over the Dulles Toll Road, and provide direct connections within the Innovation Center Transit Station Area. The project will provide additional capacity across the Dulles Corridor, reduce congestion and delay on Route 28 and Centreville Road, and improve accessibility and mobility to and within the area surrounding the Innovation Center Metrorail Station.	\$100,000	\$21,600	\$79,000	\$30,000
Seven Corners Ring Road (Phase 1A/Segment 1A)	The Board of Supervisors adopted an updated Comprehensive Plan for the Seven Corners area that includes a concept for a new Seven Corners Interchange. This project will design and construct the first phase of the new Interchange. This phase consists of a new road connecting Route 7, on the western side of the existing Seven Corners Interchange, with a bridge over Route 50, around the Interchange to Sleepy Hollow Road, back to Route 7 on the eastern side of the Interchange and terminating with a bridge that goes over Route 50.	\$78,000	\$3,000	\$75,000	\$75,000
Route 28 Northbound Widening (McLearen Road to Route 50)	The Route 28 Widening Project consists of the widening of northbound Route 28 from three to four lanes between Route 50 and McLearen Road. At the southern terminus, the fourth thru lane will be added immediately north of the bridge over Route 50, creating a four lane northbound typical section prior to the Route 50 collector-distributor (CD) road merging with Route 28. As part of the improvements, the northbound auxiliary lane at the Route 50 interchange is being lengthened to provide additional merging area for the heavy traffic volumes entering from Route 50, and a continuous auxiliary lane will be added between the Udvor Hazey Air & Space Museum Parkway interchange and the McLearen Road interchange.	\$21,068	\$2,068	\$19,000	\$20,000



## ATTACHMENT 2

PROJECT	PROJECT DESCRIPTION	CURRENT COST ESTIMATE (\$000)	SECURED FUNDING ROUNDED (\$000)	BALANCE NEEDED (\$000)	BUILD REQUEST (\$000)
Frontier Drive Extension	The Frontier Drive Extension will extend Frontier Drive from its terminus south of the Franconia-Springfield Parkway to Loisdale Road, including improved access to the Franconia-Springfield Metrorail Station and braided ramps to and from the Franconia-Springfield Parkway, and provide on-street parking along Frontier Drive, as well as pedestrian and bicycle accommodations.	\$116,100	\$35,000	\$81,100	\$25,000

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ACTION – 7

Endorsement of Design Plans for the Wiehle Avenue at Washington and Old Dominion (W&OD) Trail Pedestrian Bridge Project (Hunter Mill District)

ISSUE:

Board endorsement of the Fairfax County Department of Transportation (FCDOT) design plans for a grade separated crossing of the W&OD Trail at Wiehle Avenue.

RECOMMENDATION:

The County Executive recommends that the Board endorse the design plans for the Wiehle Avenue at W&OD Trail Pedestrian Bridge Project as generally presented during the March 17, 2016, Public Hearing, and authorize the director of the Department of Transportation to transmit the Board's endorsement to VDOT.

TIMING:

Board action is requested on July 10, 2018 to allow FCDOT to proceed with land acquisition and final plan design.

BACKGROUND:

The project will address safety concerns at the current at-grade intersection. Key components include a truss type bridge, retaining walls, and full directional access to Wiehle Avenue for trail users at this location. Wiehle Avenue will be widened from Sunset Hills Road to the Pizza Hut/Reston Fire Station properties to provide the necessary pavement width for on-road bike lanes in the future. These improvements were identified by the Reston Metrorail Access Group's (RMAG) plan to improve vehicle, bicycle, and pedestrian access near the new Wiehle-Reston East Metrorail Station.

A Design Public Hearing was held on Thursday, March 17, 2016. FCDOT presented several aesthetic design options to the public including bridge type, medallion options, formliner textures and colors. FCDOT also discussed utility relocations, coordination with nearby stakeholders, and site constraints that are presented by the W&OD Trail crossing at this location.

Twenty-two members of the community attended the meeting and were generally supportive of the project. The majority of responses indicated that a weathered steel truss bridge with "dry stack stone" finish for the retaining walls was the

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preferred option. The feedback received from the public did not provide enough information to determine a preferred color, and the majority of votes indicated that a medallion on the bridge was not desirable. A copy of the Project Information Sheet is attached.

Northern Virginia Regional Park Authority (NOVA Parks) is a key stakeholder in the project. NOVA Parks requested ample bridge width for adequate trail capacity and acceptable levels of service for current and future users of the W&OD Trail. FCDOT worked closely with NOVA Parks to develop a bridge typical section that met these needs while also considering the requirements of two additional stakeholders:

- Dominion Energy – Needed access for their transmission lines and required sufficient area for future expansion of their electrical network.
- VDOT – Desired a maintenance area adjacent to the bridge and adjoining retaining walls. All state and federal structural requirements must be met.

Precautions and safety measures for the construction of the project have been discussed in great detail by FCDOT and the Department of Public Works and Environmental Services (DPWES) staff.

Redevelopment plans for Fairfax County Fire Station #25 to improve operations are in progress. The new fire station will be built prior to the pedestrian bridge and is located just north of the W&OD Trail crossing at Wiehle Avenue. Extensive coordination efforts are on-going to ensure both projects overlap successfully. The main coordination effort is the relocation of a 24 inch water main, which is impacted by the proposed pedestrian bridge, through the fire station property.

The current project schedule is as follows:

- Land Acquisition Notice to Proceed – Winter 2018
- Final Design – Fall 2019
- Begin Utility Relocation – Fall 2019
- Begin Construction – Summer 2021
- End Construction – Summer 2022

FISCAL IMPACT:

There is no impact to the General Fund. The original Appendix A funding agreement was signed by FCDOT and VDOT in Summer 2013. Additional engineering, construction, right-of-way, and utility costs have been identified by FCDOT, and the Appendix A funding agreement has been updated accordingly. Funding to support this project is comprised of Regional Surface Transportation Program (RSTP) and State Match. See the attached agreement between VDOT and the County (Attachment 2). The current estimated cost to complete this project is \$11,380,000. Funding in the amount of \$8,151,000 is currently available in project 1400102-2013, Fund 50000, Federal-State Grants. Additional FY2019 grant funds will be appropriated at FY2019

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Carryover in accordance with the VDOT Reston Metrorail Access Group (RMAG) parent funding agreement to fill the funding gap. Preliminary Engineering (PE) Phase funding of \$1,000,000 is included in the total project estimate, but is covered under a separate funding agreement with VDOT.

ENCLOSED DOCUMENTS:

Attachment 1: March 17, 2016 Project Information Sheet

Attachment 2: Appendix A, Revision 2 – UPC 107439 Funding Agreement

STAFF:

Robert Stalzer, Deputy County Executive

Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)

Todd Minnix, Chief, Transportation Design Division, FCDOT

Mark VanZandt, Section Chief, Transportation Design Division, FCDOT

Scott Ruffner, Project Manager, Transportation Design Division, FCDOT

## PROJECT INFORMATION SHEET

**Project Name:** Wiehle Avenue at the W&OD Trail

**Agency Administering Project:** Fairfax County Department of Transportation (FCDOT)

### Project Location

- District: Hunter Mill      Tax Map: 17-4
- Route Number: 828      Fed. Functional Class: Urban Minor Arterial (GS-6)
- Street Name: Wiehle Avenue
- Project Termini
  - From: Isaac Newton Square
  - To: Michael Faraday Court

### Project Numbers

- FCDOT Project No.: 1400102-2013, Fund No.: 500-C50000 (Federal-State Grant Fund)
- State Project No.: 0828-029-248
- VDOT UPC: 107439

**Project Description:** As a part of the Reston Metrorail Access Group's (RMAG) plan to improve vehicle, bicycle, and pedestrian access near the new Wiehle-Reston East Metro Station, this project will provide a new bicycle/pedestrian bridge overpass for the W&OD Trail over Wiehle Avenue to replace the existing at-grade crossing. The new bridge will accommodate both the gravel path and asphalt W&OD trail at this location. Full directional access will be provided to and from Wiehle Avenue. Minor modifications to Wiehle Avenue will be made to accommodate the bridge and the necessary drainage and stormwater management features will be implemented at the project site. A Programmatic Categorical Exclusion, PCE, is planned, but is not available for the Public Hearing.

**Project Estimate:** \$10 Million

### Schedule:

- Public Hearing Winter 2016
- NEPA Document Completion Winter 2016
- Public Hearing Design Approval Spring 2016
- Land Acquisition Completion Spring 2018
- Final Design Approval Winter 2018
- Utility Relocation Completion Summer 2019
- Construction Completion Winter 2021

**Civil Rights:** Representatives from FCDOT are present to discuss the project and answer your questions. It is the responsibility of FCDOT to ensure that all members of the community are afforded the opportunity to participate in public decisions on transportation systems and projects affecting them.

## PROJECT INFORMATION SHEET

FCDOT ensures nondiscrimination and equal employment in all programs and activities in accordance with Title VI and Title VII of the Civil Rights Act of 1964. If you need more information in regards to your civil rights on this project or special assistance for persons with disabilities or limited English proficiency, contact the project manager listed below.

**Land Acquisition:** The construction of the bridge overpass will not require the displacement of any families, businesses or non-profit organizations. As we further develop and finalize the design of the project, additional easements may be required beyond the right of way shown on the plans. The property owners will be informed of the exact location of the easements and right of way limits during the land acquisition process prior to construction.

**Get Involved:** Ten days after this public hearing, on March 27, 2016, the public comment period will closed. FCDOT will review and evaluate any information received as a result of this hearing. You can email or deliver your comments to the project manager.

### **Project Contacts:**

FCDOT Project Manager – Scott Ruffner, 703-877-5741, [scott.ruffner@fairfaxcounty.gov](mailto:scott.ruffner@fairfaxcounty.gov) , 4050 Legato Road, Suite 400, Fairfax, VA 22033

VDOT Project Coordinator - Jeff Daily, 703-259-2993, [jeff.daily@vdot.virginia.gov](mailto:jeff.daily@vdot.virginia.gov) , 4975 Alliance Drive, Fairfax, VA 22030

## PROJECT INFORMATION SHEET

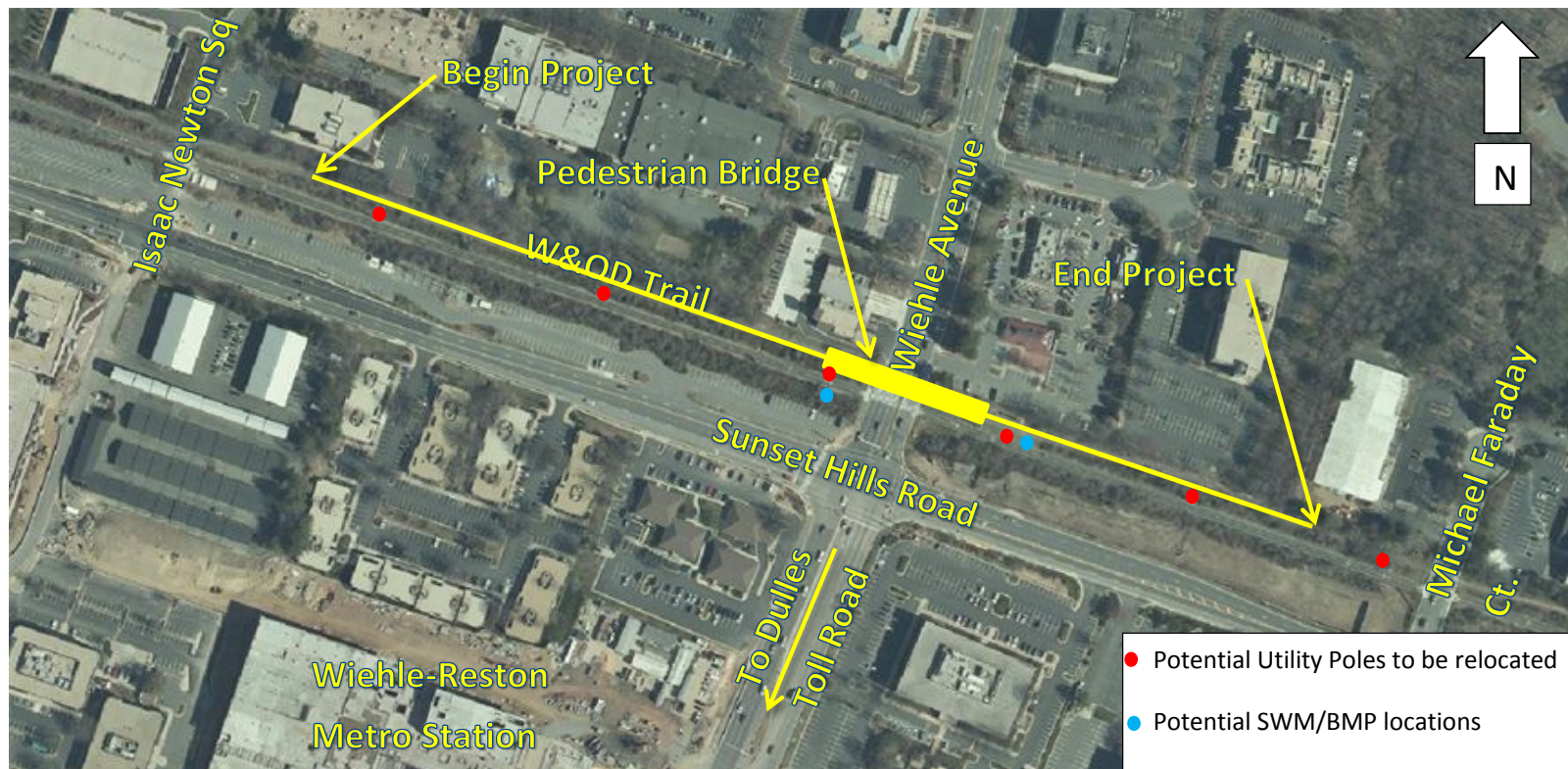
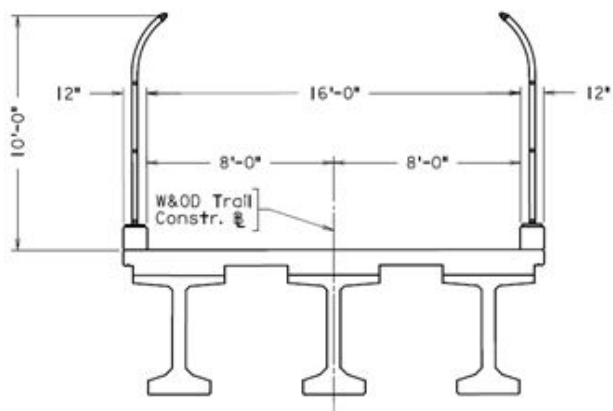
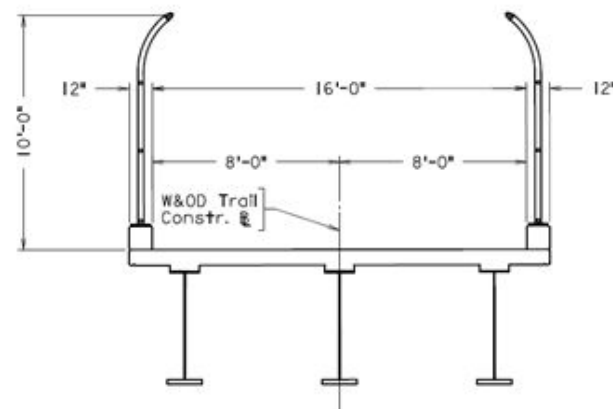


Figure 1 – Location Map

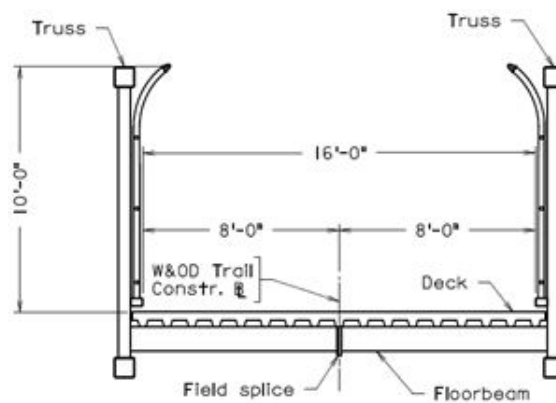
## PROJECT INFORMATION SHEET



PRESTRESSED BEAM OPTION



STEEL PLATE GIRDER OPTION



TYPICAL TRUSS SECTION

Figure 2 – Typical Sections for Bridge Options



## ATTACHMENT 2

Appendix A (Breakout Project #5 to UPC 100470) - Revision 2

Date: 2/27/2018

Project Number: 0828-029-248	UPC: 107439	CFDA #: 20.205	Locality: Fairfax County
Project Location ZIP+4: 20190-5201	Locality DUNS#: 74837626	Locality Address (incl ZIP+4): 4050 Legato Road, Suite 400, Fairfax, VA 22033-2867	

**Project Narrative**

Scope:	Wiehle Avenue & W&OD Trail Grade Separated Crossing		
From:	0.057 Mi W of Wiehle Avenue		
To:	0.133 Mi E of Wiehle Avenue		
Locality Project Manager Contact Info:	Todd Minnix, 703-877-5749		Wesley Minnix@fairfaxcounty.gov
Department Project Coordinator Contact Info:	Jeffrey Daily, 703-259-2993		Jeff.Daily@vdot.virginia.gov

**Project Estimates**

	Preliminary Engineering	Right of Way and Utilities	Construction	Total Estimated Cost
Estimated Locality Project Expenses	\$0	\$4,495,000	\$5,786,000	\$10,281,000
Estimated VDOT Project Expenses	\$0	\$5,000	\$94,000	\$99,000
Estimated Total Project Costs	\$0	\$4,500,000	\$5,880,000	\$10,380,000

**Project Cost and Reimbursement**

Phase	Estimated Project Costs	Funds type (Choose from drop down box)	Local % Participation for Funds Type	Local Share Amount	Maximum Reimbursement (Estimated Cost - Local Share)	Estimated Reimbursement to Locality (Max. Reimbursement - Est. VDOT Expenses)
Preliminary Engineering						
<b>Total PE</b>						
Right of Way & Utilities	\$4,500,000	RSTP	0%	\$0	\$4,500,000	
<b>Total RW</b>	\$4,500,000			\$0	\$4,500,000	\$4,495,000
Construction	\$2,750,000	RSTP	0%	\$0	\$2,750,000	
	\$3,130,000	Local Funds	100%	\$3,130,000	\$0	
<b>Total CN</b>	\$5,880,000			\$3,130,000	\$2,750,000	\$2,656,000
<b>Total Estimated Cost</b>	\$10,380,000			\$3,130,000	\$7,250,000	\$7,151,000

Total Maximum Reimbursement by VDOT to Locality (Less Local Share)

\$7,250,000

Estimated Total Reimbursement by VDOT to Locality (Less Local Share and VDOT Expenses)

\$7,151,000

**Project Financing**

RSTP	State Match	Local Funds				Aggregate Allocations
\$5,800,000	\$1,450,000	\$3,130,000				\$10,380,000

**Program and project Specific Funding Requirements**

- This project shall be administered in accordance with VDOT's Locality Administered Projects Manual
- The Scoping Process for this project was completed under UPC 104294 which covered the PE phase for all subsequent breakout projects from UPC 100470.
- This project is funded with federal-aid Regional Surface Transportation Program (RSTP) funds. These funds must be obligated within 12 months of allocation and expended within 36 months of obligation.
- This is a limited funds project. The Locality shall be responsible for any additional funding in excess of \$7,250,000 (if applicable)
- This project is a breakout of UPC 100470. This Appendix A is hereby amended to the agreement for UPC 100470.
- Total project allocations: \$10,380,000**
- All local funds included on this appendix have been formally committed by the local government's board or council resolution.
- This revision updates the estimates and funding in accordance with input from Fairfax County.

 3/1/18  
Authorized Locality Official and date

Tom Biesiadny

Typed or printed name of person signing

 02 MAR 2018  
Authorized VDOT Official and date

Ray Burkhardt

Typed or printed name of person signing

Board Agenda Item  
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ACTION – 8

Approval of the 2018 Zoning Ordinance Amendment Work Program

ISSUE:

Approval of the 2018 Zoning Ordinance Amendment Work Program.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors (Board) approve the 2018 Zoning Ordinance Amendment Work Program.

TIMING:

Board action is requested on July 10, 2018.

BACKGROUND:

The Zoning Ordinance Amendment Work Program (ZOAWP) is approved by the Board on an annual basis and contains requests for amendments to the Zoning Ordinance generated from the Board, the Planning Commission, the Board of Zoning Appeals, staff, citizens, and industry representatives. The proposed 2018 ZOAWP contains 18 main initiatives, 5 under zMOD and 13 under the “regular” Zoning Ordinance Amendments. Several of these amendment initiatives are broken down into more specific topic areas that relate to subject of the main initiative, but reflect different provisions governed by the Zoning Ordinance. For example, the Agricultural District and Uses initiative (Item #2 on the 2018 ZOAWP) comprises 6 individual topic areas for consideration, which range from community gardens/urban agriculture, to sales/distribution of garden/farm products, to agritourism uses, to industrial composting. Similarly, the Editorial and Minor Revisions initiative (Item #4) consists of 14 individual topic areas that are all editorial/minor in nature, but are completely unrelated to one another. Within the 18 main initiatives, there are 47 individual topic areas, of which 15 are new and the remaining items have been carried over from the 2017 ZOAWP.

As with the 2017 ZOAWP, for 2018 staff is again proposing a “First Tier” and “Second Tier” timing recommendation. The First Tier items are those amendments that staff believes can be brought forward for authorization during the first half of the fiscal year for 2019 (July 1 – Dec. 31, 2018) and the Second Tier items will be considered in the second half (Jan. 1 – June 30, 2019). The editorial and minor revisions amendments would be brought forward as time permits, either as a bundle of unrelated topic areas or some topics may be included with other amendments, as appropriate. As staff moves forward on the items listed on the 2018 ZOAWP specific schedules with identified

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milestones will be developed and posted to the Department of Planning and Zoning website. <https://www.fairfaxcounty.gov/planning-zoning/zoning-ordinance/amendments>

The zMOD initiatives being undertaken by staff have a separate target time frame that reflects either the anticipated date for bringing the topic forward for authorization of public hearings or TBD (*to be determined*), as these items are still being researched and timing has not yet been determined. The target time frame also acknowledges the ongoing consultant work on reformatting/restructuring and developing new use categories.

On May 16, 2018, the Planning Commission's Policy and Procedures Committee reviewed the proposed 2018 ZOAWP and on May 24, 2018 the ZOAWP was endorsed by the full Planning Commission.

On June 12, 2018, staff provided a status update of items on the 2017 Priority 1 ZOAWP and presented the proposed 2018 ZOAWP to the Board's Development Process Committee (DPC) for review and consideration. Staff noted that, since June 20, 2017, the Board has either adopted or authorized for public hearing 18 of the 47 individual topic areas on the 2017 ZOAWP. These changes represent amendments within 10 of the 20 main amendment initiatives included on the ZOAWP. (See Attachment 1). At the DPC meeting, the Board requested information regarding how the 2017 ZOAWP statistics compared to prior year completion statistics. In response, staff offers the following data taken from previous ZOAWP updates to the Board:

ZOAWP Year	# of Amendment Topic Areas	# of Topic Areas Authorized/Adopted	% of Topics Authorized/Adopted
2017	47	18	38%
2016	33	14	42%
2015	37	19	51%
2014	29	10 + 3 addressed by interpretation	44%

As indicated by the number of topic areas authorized/adopted during the past four years, on average 16 amendment topics are processed each year. This does not account for staff time spent on researching and stakeholder outreach on other prioritized amendment topics contained on the ZOAWP.

For the 2018 ZOAWP, staff advised the DPC that the Tier 1 amendments will focus on initiatives relating to continuing care facilities, agriculture, outdoor lighting, signs, state code changes (wireless support structures) and short-term lodging, among others. These changes will be considered at the same time as the zMOD consultant, Clarion

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Associates, will be undertaking efforts to re-format and restructure the Zoning Ordinance.

Lastly, staff notes that the 2018 ZOAWP is intended to be a two-year Work Program, with the timing of amendments established for the next 12 months. For the subsequent 12 months, staff will return to the Planning Commission and Board of Supervisors with an update on this year's progress, identify any new items that have been added to the ZOAWP and establish the timing of those amendment for FY2020.

FISCAL IMPACT:

The 2018 Work Program can be addressed using existing staff and resources.

ENCLOSED DOCUMENTS:

Attachment 1 – Status Table for the 2017 Priority 1 ZOAWP  
Attachment 2 – Proposed 2018 Priority 1 ZOAWP Summary Table  
Attachment 3 – Proposed 2018 Priority 1 ZOAWP Narrative  
Attachment 4 – New Amendment Requests Since Adoption of 2017 ZOAWP  
Attachment 5 – Proposed 2018 Priority 2 ZOAWP  
Attachment 6 – Fairfax County Land Use Outreach and Communication Tools  
Attachment 7 – Planning Commission Verbatim Excerpt

STAFF:

Robert A. Stalzer, Deputy County Executive  
Fred Selden, Director, Department of Planning and Zoning (DPZ)  
Leslie B. Johnson, Zoning Administrator  
Donna Pesto, Deputy Zoning Administrator

## STATUS UPDATE FOR THE 2017 ZONING ORDINANCE AMENDMENT WORK PROGRAM

ZONING ORDINANCE MODERNIZATION (zMOD) PROJECT INITIATIVES		
# on 2017 zMOD	Amendment Topic	Status
1	Re-Format and Restructure Provisions	DPC* 5/8/2018 Consultant work underway
2	Minor Modification Provisions	ADOPTED 11/22/2017
3	Use Categories a. Restaurants	Consultant work underway a. ADOPTED 01/23/2018
4	PDH District Regulations	Research Ongoing
5	Sign Ordinance	DPC 03/13/2018
6	Additional Building Repositioning/Repurposing Recommendations	Research Ongoing
STATUS OF 2017 ZONING ORDINANCE AMENDMENT WORK PROGRAM INITIATIVES		
# on 2017 ZOAWP	Amendment Topic	Status
1	Agricultural Districts and Uses	
	A. Community Gardens/Urban Agriculture	DPC 3/13/2018
	B. Sales/Distribution of Farm/Garden Produce	
	C. Residential Gardening as an Accessory Use	
	D. Agritourism Uses	Research ongoing
	E. Industrial, Commercial and Container Agriculture	
	F. Industrial Composting	
2	Older Adult Accommodations and Services	
	A. Continuing Care Facilities ( <i>Includes Item 9b on Priority 2- definition of congregate living facility</i> )	DPC 4/3/2018
	B. Adult Day Health Care	DPC 4/3/2018
	C. Other 50+ Plan Initiatives	DPC 4/3/2018
3	Parking	
	A. Eliminate reduction for Transportation Demand Management Programs	ADOPTED 2/20/2018
	B. Administrative approval for certain shared parking agreements	
	C. Streamline parking reduction process	
	D. Parking maximums or reductions in all Transit Station Areas	
4	P District Recreation Fees	ADOPTED 6/20/2017

## STATUS UPDATE FOR THE 2017 ZONING ORDINANCE AMENDMENT WORK PROGRAM

# of 2017 ZOAWP	Amendment Topic	Status
5	PRC District (Reston) – Density Provisions	Continuing outreach
6	PRM District – Final Development Plan	ADOPTED 7/11/2017
7	Rear Yard Coverage	
	A. Clarify 30% rear yard coverage calculation	Authorized 3/20/2018
	B. Increase rear yard coverage for certain sized lots	PCPH* 4/18/2018
	C. Allow for modifications of lot coverage as a Special Permit	BOSPH* 5/15/2018
8	State Code Changes	
	A.(1) Short-term rentals – homeowner/renter operated in dwellings (Includes Item 12 from the 2017 ZOAWP Priority 2 regarding definition of transient occupancy.)	Authorized 3/20/2018 PCPH 5/3/2018 BOSPH 6/19/2018
	A.(2) Short-term rentals – commercially operated	DPC 1/30/2018
	B. Telecommunications/small cell facilities	ADOPTED 6/20/2017
9	Accessory Structure Size	Research ongoing
10	Application Fees	
	A. Public Facilities (15.2-2232) and wireless facilities (Spectrum Act)	ADOPTED 6/20/2017
	B. Other zoning application fees	To be determined
11	Laurel Hill Historic Overlay District	Research ongoing
12	Outdoor Lighting	Research ongoing
13	Site Plan Provisions (LDS Initiative)	ADOPTED 3/6/2018
14	Editorial and Minor Revisions	
	A. Children’s play structures	Authorized 3/20/2018 PCPH 4/18/2018 BOSPH 5/15/2018
	B. Editorial – paragraph reference in Sect. 16-401	ADOPTED 7/11/2017
	C. Department name change – DPWES to LDS	ADOPTED 7/11/2017
	D. Other revisions (see Narrative in Attachment 3)	Research ongoing

\* Abbreviations: DPC – Board of Supervisor’s Development Process Committee  
PCPH – Planning Commission Public Hearing  
BOSPH – Board of Supervisors’ Public Hearing

## SUMMARY TABLE - PROPOSED 2018 ZONING ORDINANCE AMENDMENT WORK PROGRAM

ZONING ORDINANCE MODERNIZATION (zMOD) PROJECT INITIATIVES			
<i>TBD = To Be Determined</i>			
Origin	#	Amendment Topic	Target Timeframe
2016 ZOAWP and NEW	1	Building Repositioning/Repurposing    A. Small-Scale Production Facilities B. Temporary/Pop-Up Uses	A. 9/2018 B. TBD
2017 ZOAWP	2	PDH District Regulations	TBD
2017 ZOAWP	3	Re-format and restructure provisions	Consultant work underway
2017 ZOAWP	4	Sign Ordinance    A. Content neutrality-related changes B. Size, height, location changes; Comprehensive Sign Plan review process	A. 9/2018 B. 2019
2017 ZOAWP	5	Use Categories	Consultant work underway
2018 ZONING ORDINANCE AMENDMENT WORK PROGRAM INITIATIVES			
NOTE: Under the Tier column, "First" is a timing reference that indicates an intent to seek authorization by the Board within the first half of Fiscal Year (FY) 2019 and "Second" would occur in the second half of FY2019 and "Pending" indicates that the amendment has been authorized and is advancing through the public hearing process			
Origin	#	Amendment Topic	Tier
2016 ZOAWP	1	Accessory Structure Size	Second
2016 ZOAWP	2	Agricultural Districts and Uses *	First and Second
2016 ZOAWP	3	Application Fees	Second
2017 ZOAWP and NEW	4	Editorial and Minor Revisions *	First and Second
NEW	5	Land Development Services Initiatives*	Second
2016 ZOAWP	6	Laurel Hill Historic Overlay District	Second
NEW	7	Noise Ordinance – Limited Minor Updates *	First
2016-17 ZOAWP, 50+ Action Plan	8	Older Adult Accommodations and Services and other Congregate Care Uses *	First and Second
2016 ZOAWP	9	Outdoor Lighting	First
2016 ZOAWP	10	PRC District Density (Reston)	First
2016 ZOAWP	11	Rear Yard Coverage *	Pending
2017 ZOAWP	12	Short-Term Lodging    A. Homeowner/renter Operated in Dwellings B. Commercially Operated	Pending First
NEW	13	2018 State Code Changes *	First and Second

\* See Subcategories in the Priority 1 Work Program Narrative in Attachment 3

**PROPOSED 2018 ZONING ORDINANCE AMENDMENT WORK PROGRAM  
PRIORITY 1 NARRATIVE**

*(Includes the 2018 Priority 1 Zoning Ordinance Amendment Work Program  
and the 2018 zMOD Initiatives, collectively referred to as 2018 ZOAWP)*

Below is an alphabetical list and description of the amendments proposed to be evaluated as part of the on-going zMOD initiatives and the 2018 Zoning Ordinance Amendment Work Program (ZOAWP). Timing for consideration of the proposed amendments on the ZOAWP is identified as either “First Tier”, “Second Tier”, “Pending” or “To Be Determined (TBD).” The First Tier amendments are anticipated to be reviewed and brought forward for discussion/authorization within the first six months of the Fiscal Year 2019 and items identified as Second Tier would be considered in the second half of the fiscal year. Items identified as “Pending” have been authorized as of the date of preparation of this Work Program. Those items identified as “TBD” would be included with other items or brought forward throughout the term of the 2018 ZOAWP. **Highlighted** items are new amendments on the zMOD initiatives and ZOAWP and the remainder are carry-over items from the 2017 ZOAWP.

**Zoning Ordinance Modernization (zMOD) Initiatives**

1. **Building Repositioning/Repurposing** – amendments to permit office-to-residential/mixed use conversions, flex units, maker spaces, small-scale production facilities, and other similar uses.  
  
**NEW (Staff)** A. **Small-Scale Production Facilities** – consider establishing a use category for production/ assembly/manufacturing establishments of a limited size in commercial areas to accommodate uses such as include indoor food production, 3-D printer manufacturing, etc.  
  
**NEW (Staff)** B. **Temporary/Pop-Up Uses** – consider establishing a use category for short-term uses that occupy vacant spaces for a limited period of time, such as restaurants, art galleries/shows/performances, etc.
2. **PDH District Regulations** –to include review of the Purpose and Intent provisions, as well as yards, uses, processes and issues impacting homeowners, particularly related to small-scale PDH developments, including HOA maintenance and other topics.
3. **Re-Format and Restructure Provisions** - to include use of tables, illustrations and web-enabled links/content, to create streamlined, user-friendly document that is usable on multiple electronic platforms
4. **Sign Ordinance** – in two parts: First, content neutrality; Second, size, height and location considerations and Comprehensive Sign Plan review process.
5. **Use Categories** - to include combining uses into more generic categories to accommodate emerging trends, reduce need for determinations and to more accurately reflect current/future changes in the industry.



## **PRIORITY 1 ZONING ORDINANCE AMENDMENT INITIATIVES**

1. **Accessory Structure Size** – Consider limiting the size of an accessory structure relative to a principal structure that can be permitted by right and allowing larger accessory structures with special permit approval by the BZA. **(Second Tier)**
2. **Agricultural Districts and Uses** – Review zoning districts in which agricultural activities are permitted; address trends to include more community-based and urban agricultural forms; address agritourism uses as set forth in the State Code; and review provisions allowing for the sale of agricultural/garden products.
  - A. Community Gardens/Urban Agriculture **(First Tier)**
  - B. Sales/distribution of Garden/Farm Products (including wayside stands, farm markets, open air produce stands, farmers’ markets) **(First Tier)**
  - C. Residential Gardening as an Accessory Use **(First Tier)**
  - D. Agritourism Uses **(Second Tier)**
  - E. Industrial, Commercial and Container Agriculture **(Second Tier)**
  - F. Industrial Composting **(Second Tier)**
3. **Application Fees** – Evaluate application fees in conjunction with the next budget cycle to determine if adjustments are warranted. **(Second Tier)**
4. **Editorial and Minor Revisions**
  - A. Accessory Dwelling Units – clarify Special Permit provisions to specify the minimum standards for a unit to be deemed to be fully within a principal dwelling on lots of less than two acres. **(Second Tier)**
  - B. **NEW (Staff)** Accessory Outdoor Storage and Display - Revise Sections 4-505, 4-605, 4-705, 4-805 and 10-102 to increase the amount of outdoor storage and display that would be exempt from site plan requirement from 250 square feet to 500 square feet to align with changes made to Article 17, Site Plans, with ZO-18-471. **(First Tier)**
  - C. **NEW (Staff)** Child Care Centers – delete references to Chapter 30 and Title 63.2, Chapter 17 of the Code of Virginia in the additional standards, as there is no enforcement authority under the Zoning Ordinance. **(Second Tier)**
  - D. **NEW (Moved from Priority 2)** Commonly Accepted Pets – review the County Code provisions related to types of animals that can be kept as a pet in a dwelling and determine if changes to the Zoning Ordinance are required. **(Second Tier)**

E. Definitions

- (1) **NEW (Staff)** Gross Floor Area – correct an inadvertent deletion of a portion of the definition of gross floor area that occurred with the minor modifications amendment. **(First Tier)**
  - (2) Lot Line – consider revising the definition so that measurements for curved lot lines are no longer based on the chord of the arc. **(First Tier)**
  - (3) Lot Width – consider allowing lot width to be measured along any street on a through lot and clarify that lot width is measured from the local street on a reverse frontage lot. **(First Tier)**
- F. **NEW (in part)** Keeping of Animals – delete the provision regarding animals kept on a property prior to October 11, 1977, as the provision is no longer valid and **[NEW (Staff-based on Noise Ordinance Update)]** consider prohibiting the keeping of roosters as accessory to a dwelling unit. **(First Tier)**
- G. Nonconformities – clarify the time limit in which a discontinued use that had been permitted by right under previous provisions, but which requires special exception or special permit approval under the current provisions, may be re-established. **(Second Tier)**
- H. **NEW (Staff)** Permitted Extensions – delete “oriel” from the list of permitted extensions into minimum required yards, as the term is outdated **(First Tier)**
- I. Planning Commission Membership – change reference to update terminology **(First Tier)**
- J. Private/Fraternal Clubs – clarify parking requirement to reflect the number of people in attendance is based on maximum number attending at any one time rather than the total number of members of the club. **(First Tier)**
- K. **NEW (Staff)** Small Cell Facility Permits in Historic Overlay Districts – review timing of Architectural Review Board’s review and recommendation for small cell facility permits. **(First Tier)**
- L. Temporary Mobile and Land Based Telecommunications Testing Facilities – delete this use, as newer technology has rendered these facilities obsolete. **(First Tier)**
- M. Temporary Special Permits (TSP) – delete the \$100 cash escrow requirement for certain TSP uses. **(First Tier)**
- N. Yard Sales - clarify the type of household items that are permitted to be sold at yard sales associated with a dwelling. **(First Tier)**

5. **NEW (Board/Staff of LDS) Land Development Services Initiatives** - as part of the Department of Land Development Services (LDS) annual work plan, including an update of the Public Facilities Manual (PFM), changes to the Zoning Ordinance may be required in the following areas **[2018 Priority 1 #5]**:
  - A. Delegation of minor site plan authority from the County Executive to the Director
  - B. PFM Flex Project –miscellaneous changes may be required to the Zoning Ordinance
  - C. Regulations impacting the delineation of buildable areas
  - D. Changes to Residential/Non-Residential Use Permits, in favor of issuance of a Certificate of Occupancy
6. **Laurel Hill Historic Overlay District** – Establish a Laurel Hill Historic Overlay District as anticipated by the 2001 Memorandum of Agreement (MOA) between Fairfax County and the federal government for the former Lorton Correctional Complex. **(Second Tier)**
7. **NEW (Staff) Noise Ordinance** – Pursuant to the Noise Ordinance Status Update Memorandum dated September 18, 2017, consider exempting daytime animal noise; allow the Police to impose civil penalties for Noise Ordinance violations; and allow for the revocation of noise waivers for failure to comply with noise waiver conditions. **(First Tier)**
8. **Older Adult Accommodations and Services and Other Congregate Care Uses**
  - A. Continuing Care Communities
    - (1) Consider development of a new zoning district to accommodate a spectrum of institutional uses, accommodations, and associated convenience/service uses in a single, integrated development. **(First Tier)**
    - (2) Consider establishment of a new continuing care use that allows for the co-location of independent living facilities and medical care facilities on the same property. Also, consider updates to the existing provisions for Independent Living Facility, Assisted Living Facility, Congregate Living, Medical Care Facility and other associated uses to clarify definitions, assess continued appropriateness of use limitations, and to enhance distinctions between the uses. **(First Tier)**
  - B. Adult Day Health Care– Consider adding adult day care as a new use subject to use limitation and determine if the use should be permitted by-right or subject to a special exception. Staff will consider this item in the context of the Continuing Care Communities amendment. **(First Tier)**
  - C. Age-Restricted and Innovative Housing Types, Other changes identified by the 50+ Plan initiatives – consider changes that include development provisions to foster development of new/innovative housing types designed to serve older adults, first-time homebuyers, and lower income populations; review existing parking regulations; review minimum acreage requirements for certain uses ; review composition/timing/

scope of participation by the Health Care Advisory Board; and consider opportunities for expansion of the use of accessory dwelling units for older adults. **(Second Tier)**

9. **Outdoor Lighting** – Consider revisions to the outdoor lighting standards pertaining to security lighting, outdoor sports facilities and other changes to improve the overall effectiveness of such provisions; consider requiring Architectural Review Board review of sports illumination plans and photometric plans that are submitted in Historic Overlay Districts when such plans do not require site plan, special permit, special exception, rezoning or development plan approval; and review single family residential lighting exemptions to consider additional requirements for minimum spacing of lighting fixtures and possible limitations on cumulative allowable initial light outputs. **(First Tier)**
10. **Planned Residential Community (PRC) District (Reston) Density Provisions** - Consider possible revisions to the maximum allowable densities and/or persons per acre in the PRC District (Reston) to facilitate the implementation of the Reston Master Plan. **(First Tier)**
11. **Rear Yard Coverage (Pending)**
  - A. Clarify how the 30% coverage limitation within the minimum required rear yard is calculated.
  - B. Consider increasing the percentage of coverage permitted and/or eliminating the requirement for certain sized lots.
  - C. Consider allowing modifications of the maximum lot coverage requirement in a rear yard to be approved by the BZA as a special permit.
  - D. Modify size of children's play structures.
12. **Short-Term Lodging**
  - A. Homeowner/Renter Operated in Dwellings– amendment was authorized for public hearings on March 20, 2018, with the Board of Supervisors' public hearing currently scheduled for June 19, 2018. This item includes Item 12 from the 2017 Priority 2 ZOAWP regarding the establishment of a definition of transient occupancy. **(Pending)**
  - B. Commercially Operated – consider changes that would permit new multiple family dwelling unit developments to provide units on a short-term basis for a limited percentage of the units and over a limited period of time during lease-up period; consider allowing multiple family buildings to offer a small percentage of the total unit count as short term rentals that are commercially managed. **(Second Tier)**

13. **NEW 2018 State Code Changes** – this item is an annual Work Program entry that will address any changes to the Code of Virginia that necessitate a change to the Zoning Ordinance.
- A. Make the necessary revisions to implement HB 1258, which establishes parameters for zoning approvals for certain wireless support structures and for the co-location of a small cell facility with an existing wireless facility. **(First Tier)**
  - B. Consider increasing civil penalties associated with zoning violations to align with the State Code. **(Second Tier)**
  - C. Other changes, as necessary. **(Second Tier)**

**NEW ZONING ORDINANCE AMENDMENT PROPOSALS  
AFTER ADOPTION OF THE 2017  
ZONING ORDINANCE AMENDMENT WORK PROGRAM (ZOAWP)**

*NOTE: Information in parenthesis ( ) indicates the source of the recommendation.  
Information in square parenthesis [ ] indicates where the item was added to the 2018 ZOAWP*

1. **Barbering/Beauty Salon** – (Citizen) Consider allowing as a “by-right” Home Occupation in a dwelling, rather than by Group 9 Special Permit and/or expand residential districts in which such special permit is allowed (currently limited to R-E, R-1, and R-2.) **[2018 ZOAWP Priority 2 #1L]**
2. **Bicycle parking and pathway connections** – (Staff) Consider establishing a requirement for bicycle parking and standards for bicycle/pedestrian pathway connections between rights-of-way and internal site bicycle/pedestrian pathways. **[2018 ZOAWP Priority 2 #40]**
3. **Editorial and Minor Revisions**
  - A. Accessory Outdoor Storage and Display – (Staff) Revise Sections 4-505, 4-605, 4-705, 4-805 and 10-102 to increase the amount of outdoor storage and display that would be exempt from site plan requirement from 250 square feet to 500 square feet to align with changes made to Article 17, Site Plans, with ZO-18-471. **[2018 ZOAWP Priority 1 #4B]**
  - B. Child Care Centers – (Staff) Delete references to Chapter 30 and Title 63.2, Chapter 17 of the Code of Virginia in the additional standards, as there is no enforcement authority under the Zoning Ordinance. **[2018 ZOAWP Priority 1 #4C]**
  - C. Commonly Accepted Pets – (Moved from the 2017 ZOAWP Priority 2 by Board of Supervisors) - review the County Code provisions related to types of animals that can be kept as a pet in a dwelling and determine if changes to the Zoning Ordinance are required. **[2018 ZOAWP Priority 1 #4D]**
  - D. Definition of Gross Floor Area – (Staff) Correct an inadvertent deletion of a portion of the definition of gross floor area that occurred with the minor modifications amendment. **[2018 ZOAWP Priority 1 #4E(1)]**
  - E. Keeping of Animals – (Staff-Noise Ordinance Update) Consider prohibiting the keeping of roosters as accessory to a dwelling unit. **[2018 ZOAWP Priority 1 #4F]**
  - F. Permitted Extensions – (Staff) Delete “oriel” from the list of permitted extensions (Par. 1D of Sect. 2-412), as the term is outdated and a letter of clarification has been issued to industry/citizens. **[2018 ZOAWP Priority 1 #4H]**
  - G. Service Stations and Service Stations/Mini-Mart – (Staff) Modify the definitions to address the maximum area for outdoor display and the kinds of items that can be sold at these establishments. **[2018 ZOAWP Priority 2 #10G]**

- H. Small Cell Facility Permits in Historic Overlay Districts – (Staff) Review timing of the Architectural Review Board’s review and recommendation for small cell facility permits. **[2018 ZOAWP Priority 1 #4K]**
4. **Error in Building Height Through Administrative Approval** – (Industry Representative) Consider establishing an administrative process, similar to error in building location (setbacks), for small modifications in building height to be approved administratively by the Zoning Administrator. **[2018 ZOAWP Priority 2 #6]**
5. **Land Development Services Initiatives** – (Staff of LDS/Board of Supervisors) – as part of the Department of Land Development Services (LDS) annual work plan, including an update of the Public Facilities Manual (PFM), changes to the Zoning Ordinance may be required in the following areas **[2018 Priority 1 #5]**:
- A. Delegation of minor site plan authority from the County Executive to the Director
  - B. PFM Flex Project –miscellaneous changes may be required to the Zoning Ordinance
  - C. Regulations impacting the delineation of buildable areas
  - D. Changes to Residential/Non-Residential Use Permits, in favor of issuance of a Certificate of Occupancy
6. **Light Public Utility Uses (Category 1 Special Exceptions)** – (Citizen) – consider revisions to strengthen the additional standards for Category 1 uses and add provisions to protect adjacent residential uses. **[2018 Priority 2 #45]**
7. **Noise Ordinance – Limited Minor Updates** – (Staff/Board of Supervisors) Pursuant to the Noise Ordinance Status Update dated September 18, 2017, consider exempting daytime animal noise; allow the Police to impose civil penalties for Noise Ordinance violations and allowing for the revocation of noise waivers for failure to comply with noise waiver conditions. **[2018 ZOAWP Priority 1 #7]**
8. **PDC/PRM District Regulations** – (Staff/zMOD) Consider clarifying distinctions between the PDC and PRM Districts in terms of percentage and type of principal and secondary uses permitted and review related use limitations. **[2018 ZOAWP Priority 2 #42]**

9. **Recommendations of the Fair Housing Action Plan and Countywide Housing Strategic Plan** – Consider changes to the Zoning Ordinance to address impediments to affordable housing opportunities identified in the “Fair Housing Action Plan 2016-2020” and to implement the recommendations of the Countywide Housing Strategic Plan for FY2019, to include:
  - A. A review of the Affordable Dwelling Unit (ADU) program exemptions set forth in Sections 2-803 and 2-804 that exclude certain types of development from the ADU requirements. **[2018 Priority 2 #22I]**
  - B. Evaluate definitions of Affordable Housing and Affordable Dwelling Unit Development in Article 20 to determine whether current income thresholds are appropriate or should be aligned with HUD definitions. **[2018 Priority 2 #22J]**
  - C. Consider increasing the number of persons with disabilities permitted in a group residential facility from 8 to 12; consider use of a special permit process or other type of reasonable accommodation process to permit more than 12 people with disabilities in a community residence and decrease application fees associated with these applications. **[2018 Priority 2 #23B]**
10. **Small-Scale Production Facilities** – (Staff/zMOD) Consider establishing a use category for production/ assembly/manufacturing establishments of a limited size in commercial areas to accommodate uses such as indoor food production, 3-D printer manufacturing, etc. **[2018 zMOD #1A]**
11. **2018 State Code Changes** – (General Assembly) This item is an annual Work Program entry that will address any changes to the Code of Virginia that necessitate a change to the Zoning Ordinance. The 2018 Session of the General Assembly will require consideration of necessary revisions to implement HB 1258, which establishes parameters for zoning approvals for certain wireless support structures and for the co-location of a small cell facility with an existing wireless facility; consider increasing civil penalties associated with zoning violations to align with the State Code; and any other changes, as deemed necessary. **[2018 ZOAWP Priority 1 #13]**
12. **Temporary/Pop-Up Uses** – (Staff/zMOD) Consider establishing a use category for short-term uses that occupy vacant spaces for a limited period of time, such as restaurants, art galleries/shows/performances, etc. (For examples, see [artomatic.org](http://artomatic.org) and [artechouse.com](http://artechouse.com)) **[2018 zMOD #1B]**



**PROPOSED PRIORITY 2  
2018 ZONING ORDINANCE AMENDMENT WORK PROGRAM**

**The Following Abbreviations are used in this document:**

ARB - Architectural Review Board  
 BOS - Board of Supervisors  
 BZA -Board of Zoning Appeals  
 BPR - Business Process Redesign  
 DPWES - Department of Public Works and Environmental Services  
 EIP - Environmental Improvement Program  
 EAC - Fairfax County Economic Advisory Commission  
 HCAB - Fairfax County Health Care Advisory Board  
 PC - Planning Commission

TOPIC	SOURCE
<b><u>ACCESSORY USES, ACCESSORY SERVICE USES AND HOME OCCUPATIONS</u></b>	
1. Comprehensive review of accessory uses and structures, to include consideration of issues such as: <i>NOTE: These items may be considered as part of a future phase of zMOD project.</i>	BOS/PC/BZA/ Staff/Industry
A. The establishment of a maximum height limitation.	BOS/PC/BZA/ Staff/Industry
B. Revisions to the location regulations for uses/structures accessory to residential, commercial and industrial uses.	BOS/PC/BZA/ Staff/Industry
C. Establishment of a side yard requirement for accessory structures in the PRC District.	BOS/PC/BZA/ Staff/Industry
D. Consider revising the height of accessory structures and accessory storage structures that can be located anywhere in the rear or side yards to be the same.	BOS/PC/BZA/ Staff/Industry
E. Modify the accessory structure location provisions to require a freestanding wind turbine structure to be setback a distance of its height from all property lines.	BOS
F. Review the accessory use limitations to determine whether they adequately address the placement of commercial portable storage containers in commercial districts.	BOS
G. Review the allowable placement of roll-off debris containers-dumpsters in residential districts during home improvement projects.	BOS
H. Consider requiring the issuance of fence permits for either all fences or fences that are over a certain height.	Citizen

TOPIC	SOURCE
I. Consider limiting fence height requirements to four feet when a front yard of a pipestem lot abuts a rear or side yard on a lot contiguous to a pipestem driveway.	Citizen
J. Consider establishing a minimum distance a fence can be located from a pipestem driveway.	Citizen
K. Consider permitting electric fences on lots less than 2 acres as a deer management tool.	Citizen
L. <b>NEW</b> Consider allowing a Barbering/Beauty Salon as a “by-right” home occupation, rather than a Group 9 Special Permit and/or expand residential districts that permit such use.	Citizen
2. Consider revisions to the accessory service use provisions to include: <i>NOTE: These items may be considered as part of a future phase of zMOD project.</i>	
A. A clearer distinction between accessory service uses and accessory uses.	BZA/PC
B. The appropriateness of whether office buildings in the retail commercial districts should be allowed to have a small deli as a by right accessory service use instead of requiring special exception approval.	BZA/PC
3. Consider revising the home occupation provisions to allow a small amount of storage of stock in trade for a home business conducted via the internet or sales outside of the dwelling unit. <i>NOTE: These items may be considered as part of a future phase of zMOD project.</i>	Citizen
<b><u>ADMINISTRATION</u></b>	
4. Consider allowing the Board of Supervisors, Planning Commission and Board of Zoning Appeals to set the day or days to which any public hearing shall be continued due to inclement weather or other conditions without further advertisement or posting of the property.	Staff/General Assembly
5. Consider revising the cluster provisions to delete the bonus density option.	General Assembly
6. <b>NEW</b> Consider allowing for administrative approval for an error in building height (similar to error in building location) for small modifications to building height for new construction.	Industry Representative
<b><u>BOARDS, COMMISSIONS, COMMITTEES</u></b>	
7. Review Par. 7 of Sect. 19-101 to clarify that the Planning Commission has the authority to make recommendations on variance applications to the Board of Zoning Appeals.	Staff

TOPIC	SOURCE
8. Consider changing the ARB review and recommendations for site plans, subdivision plats and grading plans to review and approval.	ARB
<b><u>COMMERCIAL ZONING DISTRICTS</u></b>	
9. Consider allowing veterinary clinics in the C-3 and C-4 Districts with use limitations or as a special exception use	Staff
<b><u>DEFINITIONS AND USE LIMITATIONS</u></b>	
10. Review the following definitions: <i>NOTE: These items may be considered as part of a future phase of zMOD project.</i>	Staff/BZA
<del>A. Commonly Accepted Pets</del> <i>(NOTE: This item will has been moved to Editorial and Minor Revisions under Priority 1)</i>	BOS
<del>B. Congregate Living Facilities</del> <i>(NOTE: This item is included in analysis of continuing care facilities.)</i>	BOS
C. Contractors' offices and shops	Staff/BZA
D. Junk yard	Staff/BZA
<del>E. Riding and boarding stables</del> <i>(NOTE: This amendment was addressed with ZO-17-458 in 2017.)</i>	<del>Staff/BZA</del>
F. Private schools	Staff/BZA
G. <b>NEW</b> Service Station and Service Station/Mini-Mart	Staff
H. Storage yard	Staff/BZA
I. Streets	Staff/BZA
11. Add the following definitions <i>NOTE: These items may be considered as part of a future phase of zMOD project.</i>	
A. Establishment for production, processing, etc.	Staff/BPR/BZA
B. Place of worship	Staff/BPR/BZA
C. Storage	Staff/BPR/BZA
D. Off-leash dog parks	Citizen
12. Consider excluding patios from the deck definition in order to facilitate the placement of patios in side yards. <i>NOTE: This item may be considered as part of the zMOD project analysis of homeowner-related issues, particularly for P-Districts, but also for R-Districts.</i>	Staff

TOPIC	SOURCE
13. <del>Clarify the meaning of “transient” in the hotel/motel definition</del> <i>NOTE: This item is included in the pending short-term lodging amendment.</i>	<del>BZA</del>
14. Consider allowing the use of pervious pavers in more parking situations in order to reduce the amount of impervious surfaces and stormwater runoff.	BOS /DPWES
15. Consider revising the contractors’ office and shops definition to clarify that the use includes establishments used by paving and road contractors and by facilities that install water and sewer pipes.	BZA
16. Consider allowing electric vehicle charging stations as an accessory use with certain limitations in commercial and industrial districts or as a special exception use if use limitations are not met.	Staff
17. Review the definition of gross floor as to how it is calculated outside of the PDC, PRM and PTC Districts	Staff
<b><u>GENERAL REGULATIONS</u></b>	
18. District Regulation Interpretations – Consider allowing the transfer of allowable density or gross floor area from parcels located within an identified sending area to parcels located within an identified receiving area.	BOS
19. Exempt floor area used for a public use from the density calculations on a property	Economic Success Plan
20. Qualifying Lot and Yard Regulations – Consider the following:	
A. Allow approval of modifications to the setback requirements from railroads and interstate highways in conjunction with review and approval of SP/SE uses.	BPR
B. Review pipestem lot and yard requirements, to include possible addition of illustrations.	BPR
C. Revise provisions of lots contiguous to pipestem driveways to remove the language “serving more than one pipestem lot.”	Citizen
D. Review the existing provisions which allow uncovered stairs and stoops to encroach into minimum required yards.	Staff
E. Allow certain lattice screening walls and/or limited trellis-like features on decks for single family dwellings without requiring such features to meet the minimum required yards of the district in which located	Staff

TOPIC	SOURCE
F. Consider requiring greater setbacks for proposed construction in areas influenced by tidal flooding.	BOS's Environmental Committee
G. Consider revisions to the lot and yard definitions; consider whether front yards should be required from unimproved dedicated rights-of-way.	Infill Study
H. In order to address compatibility issues associated with new residential development in existing residential areas, review methods, such as lot coverage and square footage maximums.	BOS
21. Qualifying Use and Structure Regulations - Consider the following:	
A. Consider revising the maximum number of horses that may be maintained on a lot.	No. Va. Soil & Water Conservation District
B. Consider allowing chickens to be permitted on lots less than two acres in size in certain situations.	Citizen
<b><u>HOUSING</u></b>	
22. Consider the following revisions to the ADU program:	
A. Allow units that are acquired by the Fairfax County Redevelopment and Housing Authority (FCRHA) and are part of any FCRHA affordable housing program to be considered equivalent.	Staff
B. Clarify Par. 2B of Sect. 2-812 to indicate that resales can be sold to nonprofits pursuant to the guidelines for new units.	Staff
C. Increase the closing cost allowance from 1.5% of the sales price to either the actual closing costs or up to 3%, whichever is less.	Staff
D. For resales, allow 3% of closing costs to be part of the sales price so that applicants can apply for closing costs assistance.	Staff
E. Establish a for-sale ADU pricing schedule to include the renovation and/or preservation of existing units and condominium conversions.	Staff
F. Consider requiring an ADU bedroom mix of 50% one-bedroom units and 50% two-bedroom units for independent living facilities.	Staff
G. Determine whether inheritance laws affect the retention of an ADU within the ADU Program in the event of the death of an ADU owner, and if so, whether an amendment is necessary. Study the implications of allowing ADUs and/or workforce housing in certain commercial and/or industrial districts, subject to specific standards or by special exception.	Staff
H. Study the implications of allowing ADUs and/or workforce housing in certain commercial and/or industrial districts, subject to specific standards or by special exception.	Staff

TOPIC	SOURCE
I. <b>NEW</b> Review the ADU program exemptions set forth in Sections 2-803 and 2-804 that exclude certain types of developments from the ADU requirements.	Fair Housing Action Plan 2016-2020
J. <b>NEW</b> Evaluate the definitions of Affordable Housing and Affordable Dwelling Unit Development in Article 20 to determine whether current income thresholds are appropriate or if they should be aligned with the definitions used by Housing and Urban Development (HUD).	Fair Housing Action Plan 2016-2020
23. Other Housing Policies	
A. Review the Board of Supervisors' accessory dwelling unit policy in Appendix 5 to determine whether updates are necessary.	Staff
B. <b>NEW</b> Consider increasing the number of persons with disabilities permitted in a group residential facility from 8 to 12; consider use of a special permit process or other type of reasonable accommodation process to permit more than 12 people with disabilities in a community residence and decrease application fees associated with these type of applications.	Fair Housing Action Plan 2016-2020
24. Residential Studios – Establish a new use and associated use limitations for an affordable housing product generally designed for one person per unit.	Board
<b><u>INDUSTRIAL ZONING DISTRICTS</u></b>	
25. Revise use limitations in I-5 District regarding outdoor storage of trucks and equipment.	BOS
26. Clarify use limitations in the I-5 and I-6 Districts which allow vehicle light service establishments by right. Also consider allowing this use by right in other C and I Districts.	BPR
27. Consider allowing private clubs and public benefit associations in the industrial district by right and subject to use limitations.	Staff
28. Consider limitations on the size of a food and beverage production facility in the I-4 District.	BOS
<b><u>LANDSCAPING &amp; SCREENING</u></b>	
29. Comprehensive review of landscaping and screening provisions to include:	
A. Appropriateness of modification provisions.	BPR/Staff/ Industry
B. Address issue of requirements when property abuts open space, parkland, including major trails such as the W&OD and public schools.	Staff/EIP

TOPIC	SOURCE
C. Increase the parking lot landscaping requirements.	Tree Action Plan/EIP
D. Include street tree preservation and planting requirements.	Tree Action Plan
E. Consider requiring the use of native trees and shrubs to meet the landscaping requirements for developments along Richmond Highway.	BOS
30. Evaluate opportunities to include provisions that support and promote sustainable principles in site development and redevelopment, including the application of better site design, Low Impact Development (LIDs) and natural landscaping practices.	Tree Action Plan
<b><u>NONCONFORMITIES – ARTICLE 15</u></b>	
31. Comprehensive review and study, to include addition of provisions to address situations resulting from condemnation of right-of-way by public agencies.	Staff/BPR
<b><u>OPEN SPACE</u></b>	
32. Review of the open space provisions to include:	
A. Consider the establishment of minimum sizes/dimensions for required open space areas.	Infill Study/EIP/ Staff
B. Exempt either all or part of stormwater management dry pond facilities from the open space calculations.	Infill Study/EIP/ Staff
C. Provide open space credit for innovative BMPs but not for non-innovative BMPs	Infill Study/EIP/ Staff
D. Allow open space credit only for usable open space.	Infill Study/EIP/ Staff
E. Develop a consistent approach to open space as it relates to various existing and proposed elements of the Comprehensive Plan.	Infill Study/EIP/ Staff
F. Review the general open space provisions to clarify that open space is only intended for land that is dedicated or conveyed without monetary compensation.	Infill Study/EIP/ Staff
<b><u>OVERLAY DISTRICTS</u></b>	
33. Airport Protection Overlay District - Establish an Airport Protection Zoning Overlay District for Dulles International Airport, Ronald Reagan National Airport and Davison Airfield	BOS
34. Historic Overlay Districts - Consider the following revisions to the Historic Overlay Districts:	

TOPIC	SOURCE
A. Requiring all demolition permits for structures listed on the County Inventory of Historic Places to be reviewed by the History Commission prior to the issuance of the permit.	History Commission
B. Establish an historic overlay district for Mason Neck.	BOS
<b><u>PARKING REQUIREMENTS</u></b> <i>(NOTE: Some items may be considered as part of a future phase of the zMOD project.)</i>	
35. Study parking requirements for:	BOS /Staff
A. Funeral homes	
B. Places of worship	
C. Child care centers and nursery schools	
36. Consider reducing the minimum required parking requirement for all retail and retail mixed projects and not only those projects that are located near mass transit.	Industry
37. Consider the following revisions to vehicle parking on lots with single family detached dwellings:	
A. Limit the amount of pavement for driveways and parking in the R-5 and R-8 Districts.	Citizen
B. Limit parking for all vehicles or trailers to the front yard and only on a paved surface.	Citizen
38. Clarify the meaning of “permanent availability” in Par. 1 of Sect. 11-102 as it pertains to the use of off-site parking spaces on a contiguous lot.	Staff
39. Regulate the maximum size of personal vehicles that are permitted to park in a residential district.	Citizen
40. <b>NEW</b> Consider establishment of a bicycle parking requirement and for pathway connections between rights-of-way and on-site bicycle/pedestrian pathways.	Staff
<b><u>PERFORMANCE STANDARDS</u></b>	
41. Review the earthborn vibration performance standards.	Staff
<b><u>PLANNED DEVELOPMENT DISTRICTS</u></b>	
42. Consider the following revisions to the Planned Development Districts: Clarify the office secondary use limitations in the PDH District; Review the purpose and intent statements and the General and Design Standards; Review minimum	Infill Study/EIP/ EAC/PC/Staff



TOPIC	SOURCE
<p>lot size and open space requirements, the CDP/FDP submission requirements, and density credit for RPAs, streams and floodplains; Review permitted secondary commercial uses in the PDH District and consider increasing amount of commercial uses permitted; Consider waiving the minimum district size requirement for additions to existing PDH or PDC Districts; allow the Planning Commission to waive the 200 foot privacy yard for single family attached dwellings as part of FDP approvals; consider revising the 600 foot limit on private streets; and consider changes to the PRM/PDC District regulations related to mixed use districts. <i>(NOTE: These items may be considered as part of the zMOD items regarding PDC/PRM District Regulations and PDH District Regulations.)</i></p>	
<b><u>RESIDENTIAL ZONING DISTRICTS</u></b>	
<p>43. Establish an advisory committee to, among other things, review standards and guidelines associated with special permit, special exception and public uses in the R-C District; review maximum allowable floor area ratios; consider standards for total impervious cover and/or undisturbed open space and review combined impact of the facility footprint and total impervious surface cover, to include parking; and review the Comprehensive Plan to determine if clearer guidance is needed for special permit, special exception and public uses in the Occoquan.</p>	<p>New Millennium Occoquan Task Force/EAC</p>
<b><u>SITE PLANS</u></b>	
<p>44. <del>For uses subject to site plan approval, which does not include single family detached dwellings, consider increasing the amount of gross floor area or disturbed area that is exempt from site plan or minor site plan requirements.</del> <i>(NOTE: This item was addressed with ZO-18-471 regarding Uses Exempt from Site Plan Requirements.)</i></p>	<p>Staff</p>
<b><u>SPECIAL EXCEPTIONS</u></b>	
<p>45. Category 1 Light Public Utility Uses – Consider revisions to strengthen the additional standards for Category 1 uses and add provisions to protect adjacent residential uses.</p>	<p>Citizen</p>
<p>46. Category 2 Heavy Public Utility Uses – Consider the deletion of special exception requirement in the I-5 District for storage yards and office/maintenance facilities in conjunction with public utility uses, so these uses will be allowed by right.</p>	<p>BPR</p>
<p>47. Category 5 Commercial and Industrial Uses of Special Impact – Consider the appropriateness of the list of heavy industrial uses.</p>	<p>Staff</p>

TOPIC	SOURCE
48. Consider requiring special exception approval to establish dancing and/or live entertainment/recreation venues and clarify what is allowed as accessory entertainment to an eating establishment. <i>NOTE: this item may be reviewed as part of a future phase of the zMOD project.</i>	BOS
<b><u>SPECIAL PERMITS</u></b>	
49. Consider allowing BZA to modify or waive general standards when uses are proposed for existing structures and/or lots.	BPR
50. Consider deletion of requirement for extension requests to be submitted 30 days prior to an expiration date, consistent with renewal requests.	Staff
51. Allow BZA to modify special permit additional standards.	BPR
52. Group 1 Extraction and Excavation Uses - Consider expanding the number of property owners requiring notification for the renewal of a special permit for a quarry and revise the blasting vibration maximum resultant peak particle velocity to be consistent with state regulation 4VAC25-40-880.	BOS /PC
53. Group 4 Community Uses – Consider allowing community uses to be approved via development plans in the rezoning process in lieu of requiring special permit approval.	Staff/BPR
54. Group 5 Commercial Recreation Uses – Consider clarifying types of uses included in “any other similar commercial recreation use.”	Staff
55. Group 9 Uses Requiring Special Regulations – Consider the following:	
A. Revise the reduction of certain yard special permit additional standards to increase the allowable size of an addition and to allow the complete teardown and rebuild of a structure.	BOS /PC
B. Revise the accessory dwelling unit submission requirements, occupancy and lot size limitations.	BOS
C. Increase the minimum 55 year age requirement for accessory dwelling units.	BZA
<b><u>STATE CODE CHANGES</u></b>	
56. Incorporate the new requirement for Development in dam break inundation zones.	General Assembly
<b><u>SUBMISSION REQUIREMENTS</u></b>	

TOPIC	SOURCE
57. Revise submission requirements to include identification of heritage resources; and consider expanding the archaeological survey submission requirements to be applicable to all zoning applications and not only those applications located in Historic Overlay Districts.	BOS/Plan
58. Consider adding specificity to the submission requirements for Comprehensive Sign applications.	Staff
59. Consider adding an environmental site assessment submission requirement for site plans and certain zoning applications.	General Assembly
60. Consider the strengthening of zoning application submission requirements to require the submission of a preliminary utility plan where utility construction could conceivably result in clearing of trees.	Tree Action Plan/EIP
61. Review regulations related to:	
A. Adult video stores	Staff/BOS
B. “Doggie” day care	Staff/BOS
C. Sports arenas, stadiums	Staff/BOS
62. Review the drug paraphernalia regulations to determine whether changes are necessary due to State Code revisions.	Staff
63. Clarify that a certain amount of biotech (bioscience) research and development, which is primarily computer related and excludes animal testing, is permitted as an office use.	Staff



## FAIRFAX COUNTY LAND USE OUTREACH & COMMUNICATIONS TOOLS



The Department of Planning and Zoning, with the support of Office of Public Affairs, uses the following tools for providing information related to the various land use projects, amendments and applications that are reviewed and processed by the department. The specific tools and techniques are used as appropriate based on the specific circumstances and scope for the specific project, amendment or application being considered.

Public outreach on land use applications and public facility (2232) applications going through the review process is the responsibility of the applicant and informed by the District Supervisor; information at the end of this document addresses common methods of outreach for these cases.

- **Community meetings:** These meetings range from informational to more directed discussions to charrettes to help in decision making. Public task forces are often established for Comprehensive Plan studies, and these meetings are facilitated to provide specific recommendations. In other instances, particularly for zoning ordinance amendments, community wide meetings are held to provide information about proposed amendments, as well as gather input. Charrettes also have been used to gather public input or help reach decisions, and recent examples include the planning efforts for Seven Corners, Lincolnia and Embark Richmond Highway.
- **Open houses:** These less-formal meetings provide an opportunity for the public to learn about a specific project(s) while interacting one-on-one with county staff. As an example, multiple open houses were held during the Embark Richmond Highway planning process, and a well-attended Zoning Open House was held last summer to allow the public to learn about multiple amendment at once.
- **Stakeholder consultations:** Staff will consult directly with specific stakeholder groups, such as civic or homeowner associations and industry representatives, to gather feedback. For example, these consultations occurred with reviews of new Comprehensive Plan policy that allows for repurposing of office structures for other uses and for the craft beverage zoning ordinance amendment and the ongoing short term lodging zoning amendment.
- **County website:** Specific webpages are created for every plan and most zoning amendments, and these pages offer comprehensive information, including presentations made to the public, frequently asked questions, videos, draft plan or zoning text, public feedback gathered and staff reports. (The status of pending land use cases, as well as published staff reports and proffer statements, are available on the county's website.)
- **Listserves:** For many projects, the county establishes email listservs so that interested members of the public subscribe to can stay informed about specific projects. These project-specific listservs are in addition to the standing listservs for the Planning Commission, Comprehensive Plan Amendments, Proposed Zoning Ordinance Amendments and Adopted Zoning Ordinance Amendments.

- **Media Relations:** The county conducts outreach to the local media to inform them about proposed studies and amendments. This includes notices about upcoming meetings, key decision or actions, and final adoption of plan and zoning changes.
- **Social Media:** Twitter and Facebook are used to announce meetings for studies or amendments, seek public feedback, and final adoption of key studies and amendments. This includes the use of individual Facebook pages for land use studies and zoning related issues, as well as the county's main Facebook page. Facebook has also been used to livestream community meetings, such as the recent Office Repurposing amendment.
- **Nextdoor:** This relatively new social, platform allows the county to communicate with neighborhoods in a specific geographic area. The county government has an overall account, and each Board of Supervisors office have access to their own individual government accounts. To date, the main county account has been used to announce community or task force meetings for plan or zoning projects. For example, Nextdoor has been used to announce meetings for the Dulles Suburban Study and the Zoning Ordinance Modernization Project, known as zMOD. While Nextdoor can be a powerful tool, residents do not opt-in—or subscribe—to messages from the county. Some do not appreciate the unsolicited information, leading them to block future messages from the county.
- **Surveys:** When appropriate, online surveys are conducted to solicit public feedback. As an example, this was done for recently for the Short-Term Lodging Zoning Amendment and Zoning Ordinance Modernization project.
- **Online Chats:** Online chats have been conducted for specific projects such as Embark Richmond Highway. These chats allow the public to submit questions in advance of scheduled chat time, as well as in real time.
- **Videos:** Videos are used to provide information about specific plan or zoning amendments. As an example, there was a four-part series created for the Site-Specific Plan Amendment Process.
- **Fact sheets, fliers:** Collateral materials are created for projects as appropriate, such as fact sheets that distributed in person and online. Fliers are also used to announce meetings like fliers posted at community centers and on Connector buses for Embark Richmond Highway.
- **Mailings:** Mailings are sent to specific geographic areas or neighborhoods as appropriate, and letters are also sent to civic or homeowners associations.

#### **Legal Notification and Public Outreach on Land Use Applications**

Land use applications include cases heard by the Planning Commission (including 2232s), the PC and the Board of Supervisors, or the Board of Zoning Appeals. Public Outreach on these cases is the responsibility of the applicant and is informed by the District Supervisor. Legal Notification (which also serves an outreach function) is set by the State Code and the Zoning Ordinance and is the responsibility of both County Staff and the applicant.

- **Community meetings:** Depending on the application and the Supervisory District, these meetings take different forms, but the basic goal is to inform the surrounding community and elicit comments, issues and questions. Some meetings may include formal votes of support/no support. Planning and Zoning Staff are not staff support for these meetings, however upon request may attend to discuss process and/or a particular application, when appropriate. Community meetings may include:

- Formal Land Use Committees that meet on a regularly scheduled basis (usually monthly) to review and discuss land use cases and issues. These committees usually also review County-driven projects such as Zoning Ordinance Amendments and Plan Amendments.
- Formal Land Use Committees that meet on an as-needed basis (ie., when a case is filed) to review and discuss land use cases and issues. These committees may also review County-driven projects such as Zoning Ordinance Amendments and Plan Amendments.
- Project-specific meetings that are organized by either the applicant or the District Supervisor's office. These may be broad (for an entire community), or may be targeted at a particular neighborhood or homeowners' association.
- **County website:**
  - The **Land Development System** provides the status of pending land use cases, as well as published staff reports and related information. Search functions include by or around an address, tax map, case number, or even name of participant.  
<http://ldsnet.fairfaxcounty.gov/ldsnet/>
  - The **Planning and Zoning Viewer** is an interactive map with information about current zoning applications and zoning layers for areas within Fairfax County. The map can be customized and printed. The Viewer is accessed through the DPZ mapping page.  
<https://www.fairfaxcounty.gov/planning-zoning/maps-and-geographic-applications>
  - **My Neighborhood** is an interactive mapping application that allows users to find information related to addresses in Fairfax County. It includes links to other public web applications with information about real estate tax assessments, land development, and crime.  
<http://www.fairfaxcounty.gov/myneighborhood/>
- **Legal Notifications:** The information included in the notice (the same text is used for all three types) is proscribed by the Zoning Ordinance (Sect. 18-110) and state law (Sect. 15.2-2285 of the Code of Virginia). Applicants may not include their own information in the mailing.
  - Post physical signs on property (posted by County, not required by State Law)
  - Mail notices to adjacent property owners (notices provided by County, usually mailed by applicant with return receipt to County)
  - Run ad in newspaper (run by County)
- **Open Houses:** These less-formal meetings provide an opportunity for the public to learn about a series of project(s) while interacting one-on-one with county staff and/or the applicant. Usually organized when a large number of land use cases have been filed in a particular geographic area, such as the annual Tysons Open House held with the Tysons Partnership in the years immediately following adoption of the new Comprehensive Plan in 2010. Land use cases are usually only one of the areas of focus of an open house.

# # #

**County of Fairfax, Virginia  
Planning Commission Meeting  
May 24, 2018  
Verbatim Excerpt**

Attachment 7

ZONING ORDINANCE AMENDMENT 2018 WORK PROGRAM

During Commission Matters

Commissioner Hurley: Thank you Mr. Chairman. On May 16<sup>th</sup>, 2018, the Zoning Administrator presented the 2018 Zoning Ordinance Amendment Work Program to the Planning Commission's Land Use Process Review Committee for review and discussion. The Committee voted to recommend that the 2018 Work Program, as reviewed and modified by the Committee, be brought to the full Planning Commission tonight for endorsement. These minor modifications include such changes as:

- Moving Item 3, under the Zoning Ordinance – the ZMOD – project initiatives to...as a TBD over to a Priority 2 category to be addressed in the near term; and also
- Identify the Laurel Hill Historic Overlay District as a second tier item to be consistent with the timing identified in another attachment.

As I said, these are – were minor modifications and, therefore, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THE PROPOSED 2018 ZONING ORDINANCE AMENDMENT WORK PROGRAM, AS PRESENTED BY STAFF WITH THE CHANGES RECOMMEND BY THE LAND USE PROCESS REVIEW COMMITTEE.

Commissioner Niedzielski-Eichner: Second.

Secretary Migliaccio: Seconded by Commissioner Niedzielski-Eichner. Is there any discussion on this motion?

Commissioner Ulfelder: Mr. Chairman?

Secretary Migliaccio: Commissioner Ulfelder.

Commissioner Ulfelder: It...it's the fiscal year 2019 work plan, isn't it? If I can...

Secretary Migliaccio: Ms. Johnson.

Leslie Johnson, Zoning Administration Division, Department of Planning and Zoning: We're going by calendar year, even though it covers a fiscal year. So it is the 2018.

Secretary Migliaccio: Okay, thank you. All in favor?

Commissioners: Aye.

## ZONING ORDINANCE AMENDMENT 2018 WORK PROGRAM

Secretary Migliaccio: All opposed? The motion carries to recommend that we – oh, I’m sorry – that we recommend that the Zoning Ordinance Work Program, as described by Commissioner Hurley, is sent to the Board of Supervisors.

The motion carried by a vote of 10-0. Commissioners Hart and Murphy were absent from the meeting.

JLC



Board Agenda Item  
July 10, 2018

ACTION - 9

Approval of Fairfax Connector July 2018 Service Changes

ISSUE:

Board of Supervisors' approval of Fairfax Connector's July 2018 service changes to implement routing / running time adjustments on Route 699 and remove the last Friday trip on Route 171.

RECOMMENDATION:

The County Executive recommends the Board approve the Fairfax Connector's July 2018 service change proposals outlined below.

TIMING:

Board approval is requested on July 10, 2018, to allow for implementation on July 28, 2018.

BACKGROUND:

Fairfax Connector proposes service adjustments for implementation on July 28, 2018, to improve the customer experience through increased on-time performance, service reliability, and effectiveness.

Last year, FCDOT submitted a grant application to the Northern Virginia Transportation Commission (NVTC) for implementation of express bus service (Route 699) along I-66 using the managed High Occupancy Toll (HOT) lanes inside the Beltway. These managed HOT lanes started in December 2017. The purpose of Route 699 was to reduce congestion within the I-66 corridor inside the Beltway. Service changes are recommended to refine and improve the operation of Route 699. These service changes include an improved schedule and reduced walking distance to key locations in Washington, D.C.

Also, in an effort to maintain efficient service, the Transit Services Division (TSD) examined the effectiveness of the September 2017 service adjustments on Route 171, which included rerouting between Pohick Road and Telegraph Road for a new traffic signal at Whernside Street and Telegraph Road. Additional service changes are recommended to refine and improve the operations of Route 171.

Board Agenda Item  
July 10, 2018

Proposal Details:

*Route 699:* The service adjustment will formalize the existing Route 699 detour and add stops along 18<sup>th</sup> Street NW and 19<sup>th</sup> Street NW in Washington, D.C. (See the maps in Attachment II.) As a result of input received from the Connector Operations Section and Customer Service, a detour was instituted extending the route north on 18<sup>th</sup> Street NW to Pennsylvania Avenue and then south on 19<sup>th</sup> Street NW. The reroute improves Route 699 by the following:

- Addressing the issue with double-parked delivery trucks on G Street that were impairing bus operations along this road segment;
- Allowing Fairfax Connector to serve two additional bus stops (one each on 18<sup>th</sup> Street NW and 19<sup>th</sup> Street NW) which reduces walking distances for riders seeking to access the World Bank, International Monetary Fund, and George Washington University campus; and
- Utilizing excess deadhead / layover time to account for the one-third-mile increase in route length and approximately two-minute increase in running time.

*Route 171:* Due to low ridership and new Metrorail hours of operations, it is recommended that Fairfax Connector stop operating the last northbound and southbound Friday trips on Route 171. This will improve the overall effectiveness of Route 171. The impact to riders will be limited, based on average ridership on these trips.

To inform the public of the service changes and receive feedback from passengers, staff posted detailed information on the Fairfax Connector website and social media accounts, installed flyers on all buses, hosted one public meeting to directly engage the public, and reviewed / responded to public comments and questions. The public comments were incorporated into the proposal, where feasible. A summary of the public feedback is included as Attachment III.

TITLE VI:

The service changes to Routes 699 and 171 proposed for implementation in July 2018 were reviewed as mandated by the Federal Transit Administration (FTA) in *Circular C4702.1B, Title VI Requirements and Guidelines for Federal Transit Administration Recipients*. The analysis showed the proposed service adjustments will not create a negative disparate impact on minority riders or a negative disproportionate burden on low-income riders. The changes will result in an overall service improvement for Fairfax Connector riders and the serviced communities. The Title VI analysis is included as Attachment IV.

Board Agenda Item  
July 10, 2018

FISCAL IMPACT:

The service changes to Routes 699 and 171 will constitute minor adjustments in revenue hours, which will be absorbed within the existing FY 2019 Fairfax Connector budget (40000). There is no fiscal impact to the General Fund.

ENCLOSED DOCUMENTS:

Attachment I – Public Outreach Information / News Release  
Attachment II – Route Change Maps and Schedules  
Attachment III – Public Comments Summary  
Attachment IV – Service Equity (Title VI) Analysis

STAFF:

Robert A. Stalzer, Deputy County Executive  
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)  
Dwayne Pelfrey, Division Chief, Transit Services Division, FCDOT  
Michael Felschow, Planning Section Chief, Transit Services Division, FCDOT  
Stuart Boggs, Senior Transportation Planner, Transit Services Division, FCDOT

Public Outreach Information/News Release

## **Fairfax Connector Proposes Service Changes, Solicits Public Input**

May 1, 2018

Fairfax Connector proposes service changes for implementation in July 2018 to better serve riders, increase ridership, and to enhance the customer experience through increased on-time performance, and improved service reliability.

### **Proposal Highlights:**

- Elimination of last late evening northbound and southbound trip on Route 171
- Schedule revisions to Route 699 serving the District of Columbia to better address rider travel needs.

**Routes included in the July 2018** service proposal are 171 and 699.

### **Public Outreach Events and Public Comment**

Fairfax Connector will host an outreach event to explain the proposed changes and take comments from the public:

#### **Thursday, May 17, 2018; 6 - 8 p.m. (7 p.m. presentation)**

- Irving Middle School
- **For more information or to comment on the proposed service changes riders should:**
- Visit [fairfaxconnector.com](http://fairfaxconnector.com);
- Attend an outreach event;
- E-mail [fairfaxconnector@fairfaxcounty.gov](mailto:fairfaxconnector@fairfaxcounty.gov); or
- call 703-339-7200, TTY 711.

**Public comment will be accepted until 5 p.m., Friday, June 8, 2018.**

## Proposed Changes by Route

### Route 171 – Richmond Highway

- Eliminate last Friday northbound and southbound trip based on review of ridership data.

### Route 699 – Government Center – Downtown DC

- Eliminate 2 timepoints in the District of Columbia. Bus stops located at the eliminated timepoints would still be served.
- Add a new bus stop on 18 Street NW and on 19<sup>th</sup> Street NW to improve walk access to major destinations.
- Adjust schedule in response to rider input and analysis of running time data.

## Connect with Fairfax County Transportation!

Sign-up for alerts at [www.fairfaxcounty.gov/alerts](http://www.fairfaxcounty.gov/alerts)

Follow us on [Twitter](#) & [Facebook](#)

Visit [www.fairfaxcounty.gov/fcdot/news](http://www.fairfaxcounty.gov/fcdot/news)

Call 703-339-7200, TTY 703-339-1608

## Fairfax County Transportation Media Contact

Anna K. Nissinen, Head of Communications

[anna.nissinen@fairfaxcounty.gov](mailto:anna.nissinen@fairfaxcounty.gov)

Direct: 703-877-5606, TTY 711

Cell: 571-446-9940, TTY 711



## County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

### Public Feedback Sought on Proposed Improvements to Existing Fairfax Connector Routes

#### FOR IMMEDIATE RELEASE

May 3, 2018

Fairfax County Department of Transportation (FCDOT) is requesting feedback on proposed Fairfax Connector service changes to Routes [171](#) and [699](#). The proposed changes aim to increase ridership and to enhance the customer experience through improved on-time performance and service reliability. FCDOT will hold an outreach event on the proposed changes, Thursday, May 17, 2018 from 6:00 – 8:00 p.m. at [Irving Middle School](#), 8100 Old Keene Mill Rd in Springfield. The meeting will include a presentation at 7:00 p.m. on the proposed changes and Fairfax Connector representatives will be on hand to answer questions and take feedback from attendees.

- [Public Meeting Presentation](#)

#### Proposed Changes

##### Route 171 – Richmond Highway

- Eliminate the last Friday evening northbound and southbound trip based on travel data.

##### Route 699 – Government Center – Downtown D.C.

- Formalize the pilot changes to the route instituted in [March 2018](#) to include the addition of 2 new stops in Downtown D.C.

#### Public Feedback is Welcomed

Rider feedback is welcomed on the proposed changes until 5 p.m. on Friday, June 8, 2018. To comment on the proposed route changes:

1. Fill out a comment form at the public meeting on May 17, 2018.
2. Email comments to [fairfaxconnector@fairfaxcounty.gov](mailto:fairfaxconnector@fairfaxcounty.gov).
3. Call 703-339-7200, TTY 711.

#### Connect with Fairfax Connector!

- Visit [www.fairfaxconnector.com](http://www.fairfaxconnector.com)
- Sign-up for alerts at [www.fairfaxcounty.gov/connector/bustracker](http://www.fairfaxcounty.gov/connector/bustracker)
- Follow us on [Twitter](#) & [Facebook](#)
- Call 703-339-7200, TTY 703-339-1608
- Visit a [Connector Transit Store](#)





# 171 RICHMOND HIGHWAY

Lorton VRE Station	John Kingman Rd at Defense Logistics Agency (DLA)	Richmond Hwy & Sacramento Dr	Richmond Hwy & Ladson Ln	Richmond Hwy & Beacon Hill Rd	Huntington Metro Station (North side)	Huntington Metro Station (North side)	Richmond Hwy & Beacon Hill Rd	Richmond Hwy & Ladson Ln	Richmond Hwy & Sacramento Dr	John Kingman Rd at Defense Logistics Agency (DLA)	Lorton VRE Station
Weekday – AM Northbound Service						Weekday – AM Southbound Service					
3:20	3:33	3:44	3:51	4:01	4:13	4:25	4:34	4:44	4:53	5:02	5:17
3:50	4:03	4:14	4:21	4:31	4:43	4:55	5:04	5:14	5:23	5:32	5:47
4:20	4:33	4:44	4:51	5:01	5:13	5:25	5:34	5:44	5:53	6:02	6:17
4:50	5:03	5:14	5:21	5:33	5:45	5:55	6:04	6:15	6:24	6:36	6:54
5:10	5:23	5:34	5:41	5:53	6:05	6:15	6:24	6:35	6:44	6:56	7:14
5:30	5:43	5:54	6:01	6:13	6:25	6:35	6:44	6:55	7:04	7:16	7:34
5:50	6:01	6:14	6:21	6:34	6:48	6:55	7:04	7:15	7:24	7:36	7:54
6:10	6:20	6:33	6:40	6:53	7:07	7:15	7:24	7:35	7:44	7:56	8:14
6:30	6:40	6:53	7:00	7:13	7:27	7:35	7:44	7:55	8:04	8:16	8:34
6:50	7:04	7:20	7:27	7:40	7:54	7:55	8:04	8:15	8:24	8:36	8:54
7:10	7:24	7:40	7:47	8:00	8:14	8:15	8:24	8:35	8:44	8:56	9:14
7:30	7:44	8:00	8:11	8:24	8:38	8:35	8:44	8:55	9:04	9:16	9:34
7:50	8:04	8:20	8:31	8:44	8:58	8:55	9:04	9:17	9:27	9:36	9:52
8:10	8:24	8:40	8:51	9:04	9:18	9:15	9:24	9:37	9:47	9:56	10:12
8:30	8:44	9:00	9:11	9:24	9:38	9:35	9:44	9:57	10:07	10:16	10:31
8:50	9:03	9:15	9:24	9:37	9:51	9:55	10:04	10:17	10:27	10:36	10:51
9:10	9:23	9:35	9:44	9:57	10:11	10:20	10:31	10:44	10:55	11:04	11:16
9:40	9:53	10:04	10:13	10:28	10:41	10:50	11:01	11:14	11:25	11:34	11:46
10:10	10:23	10:34	10:43	10:58	11:11	11:20	11:31	11:44	11:55	12:04 PM	12:16
10:40	10:53	11:04	11:13	11:28	11:41	11:50	12:01 PM	12:14	12:25	12:34	12:46
11:10	11:21	11:32	11:41	11:56	12:09 PM	Weekday – PM Southbound Service					
11:40	11:51	12:02 PM	12:11	12:26	12:39	12:20	12:31	12:46	12:57	1:06	1:18
Weekday – PM Northbound Service						12:50	1:01	1:16	1:27	1:36	1:48
12:10	12:21	12:32	12:41	12:56	1:09	1:20	1:31	1:46	1:57	2:06	2:18
12:40	12:51	1:02	1:11	1:26	1:39	1:50	2:01	2:16	2:27	2:38	2:52
1:10	1:21	1:32	1:41	1:56	2:09	2:20	2:31	2:46	2:57	3:08	3:22
1:40	1:51	2:02	2:11	2:26	2:39	2:50	3:01	3:14	3:25	3:39	3:53
2:05	2:20	2:33	2:42	2:59	3:12	3:10	3:21	3:34	3:45	3:59	4:13
2:25	2:40	2:53	3:02	3:19	3:32	3:30	3:41	3:54	4:05	4:22	4:39
2:45	3:00	3:13	3:22	3:39	3:52	3:50	4:01	4:14	4:25	4:42	4:59
3:05	3:20	3:33	3:42	3:59	4:12	4:10	4:21	4:34	4:45	5:02	5:19
3:25	3:40	3:53	4:03	4:20	4:33	4:30	4:41	4:54	5:05	5:22	5:39
3:45	4:00	4:13	4:23	4:40	4:53	4:50	5:01	5:14	5:25	5:42	5:59
4:05	4:20	4:33	4:44	5:01	5:13	5:10	5:21	5:34	5:45	6:02	6:19
4:25	4:40	4:53	5:03	5:19	5:31	5:30	5:40	5:53	6:04	6:16	6:33
4:45	5:00	5:13	5:23	5:38	5:51	5:50	6:00	6:13	6:24	6:36	6:53
5:05	5:20	5:33	5:43	5:58	6:11	6:10	6:20	6:33	6:43	6:55	7:10
5:25	5:40	5:53	6:05	6:18	6:31	6:30	6:40	6:53	7:03	7:15	7:30
5:50	6:05	6:18	6:30	6:43	6:56	6:50	7:00	7:11	7:21	7:31	7:46
6:15	6:30	6:43	6:55	7:08	7:21	7:10	7:20	7:31	7:41	7:51	8:06
6:40	6:54	7:06	7:16	7:29	7:42	7:40	7:50	8:01	8:11	8:21	8:36
7:05	7:19	7:31	7:41	7:54	8:07	8:10	8:20	8:31	8:41	8:51	9:06
7:30	7:44	7:55	8:03	8:14	8:25	8:40	8:50	9:01	9:09	9:17	9:32
7:55	8:09	8:20	8:28	8:39	8:50	9:10	9:20	9:31	9:39	9:47	10:02
8:25	8:39	8:50	8:58	9:09	9:20	9:40	9:50	10:01	10:09	10:17	10:29
8:55	9:09	9:20	9:28	9:39	9:50	10:10	10:20	10:31	10:39	10:47	10:59
9:25	9:39	9:50	9:58	10:09	10:20	10:40	10:49	10:58	11:06	—	11:22
10:00	10:14	10:25	10:33	10:44	10:55	11:10	11:19	11:28	11:36	—	11:52
10:35	10:49	11:00	11:08	11:19	11:30	11:40	11:49	11:58	12:06 AM	—	12:22
11:10	—	11:28	11:35	11:45	11:55	12:10 AM	12:19	12:28	12:36	—	12:52
11:45	—	12:03 AM	12:10	12:20	12:30	12:45 AM	12:54	1:03	1:11	—	1:27
12:35 AM	—	12:53	1:00	1:10	1:20	1:40 AM	1:49	1:58	2:06	—	2:22





171 RICHMOND HIGHWAY

Lorton VRE Station		John Kingman Rd at Defense Logistics Agency (DLA)		Richmond Hwy & Sacramento Dr		Richmond Hwy & Ladson Ln		Beacon Hill Rd		Huntington Metro Station (North side)	
5:27	5:43	5:54	6:02	6:12	6:22	6:30	6:40	6:51	7:01	7:11	7:19
6:00	6:16	6:27	6:35	6:45	6:55	7:05	7:15	7:26	7:34	7:42	7:54
6:35	6:51	7:02	7:10	7:20	7:30	7:40	7:50	8:01	8:09	8:17	8:29
7:05	7:21	7:32	7:40	7:51	8:01	8:15	8:25	8:36	8:44	8:52	9:04
7:35	7:51	8:02	8:10	8:21	8:31	8:45	8:55	9:06	9:14	9:22	9:34
8:05	8:21	8:32	8:40	8:51	9:01	9:15	9:26	9:37	9:45	9:53	10:05
8:35	8:53	9:05	9:14	9:25	9:36	9:45	9:56	10:07	10:15	10:23	10:35
9:00	9:18	9:30	9:39	9:50	10:01	10:15	10:26	10:37	10:45	10:53	11:05
9:25	9:43	9:55	10:04	10:15	10:26	10:45	10:56	11:08	11:16	11:24	11:36
9:55	10:13	10:25	10:34	10:45	10:56	11:15	11:26	11:38	11:46	11:54	12:06 PM
10:25	10:43	10:55	11:04	11:15	11:26	11:45	11:56	12:08 PM	12:16	12:24	12:36
10:55	11:13	11:25	11:34	11:45	11:56	12:15 AM	12:25	12:34	12:41	12:49	12:56
11:25	11:43	11:55	12:04 PM	12:16	12:28	12:45	12:56	1:08	1:16	1:24	1:36
11:55	12:13 PM	12:25	12:34	12:46	12:58	1:15	1:26	1:38	1:46	1:54	2:06
<b>Sunday - PM Northbound Service</b>											
12:25	12:43	12:55	1:04	1:16	1:28	1:45	1:56	2:08	2:16	2:24	2:36
12:55	1:13	1:25	1:34	1:46	1:58	2:15	2:26	2:38	2:46	2:54	3:06
1:25	1:43	1:55	2:04	2:16	2:28	2:45	2:56	3:08	3:16	3:24	3:36
1:55	2:12	2:24	2:33	2:45	2:57	3:15	3:26	3:38	3:46	3:54	4:06
2:25	2:42	2:54	3:03	3:15	3:27	3:45	3:56	4:08	4:16	4:24	4:36
2:55	3:12	3:24	3:33	3:45	3:57	4:15	4:26	4:38	4:46	4:54	5:06
3:25	3:42	3:54	4:03	4:15	4:27	4:45	4:56	5:08	5:16	5:24	5:36
3:55	4:12	4:24	4:33	4:45	4:57	5:15	5:26	5:38	5:46	5:54	6:06
4:25	4:42	4:54	5:03	5:15	5:27	5:45	5:56	6:08	6:16	6:24	6:36
4:55	5:12	5:24	5:33	5:45	5:57	6:15	6:26	6:38	6:46	6:54	7:06
5:25	5:41	5:53	6:02	6:12	6:24	6:45	6:56	7:06	7:14	7:22	7:34
5:55	6:11	6:23	6:32	6:42	6:54	7:15	7:26	7:35	7:43	7:51	8:03
6:25	6:41	6:53	7:02	7:12	7:24	7:45	7:56	8:05	8:13	8:21	8:33
6:55	7:11	7:22	7:30	7:39	7:50	8:15	8:26	8:35	8:43	8:51	9:03
7:30	7:46	7:57	8:05	8:14	8:25	8:45	8:56	9:05	9:13	9:21	9:33
8:05	8:21	8:32	8:40	8:49	9:00	9:15	9:26	9:34	9:42	9:50	10:02
8:40	8:56	9:07	9:15	9:24	9:35	9:45	9:55	10:04	10:12	10:20	10:32
9:15	9:31	9:42	9:50	9:59	10:10	10:15	10:25	10:34	10:42		

## 699 GOVERNMENT CENTER – DOWNTOWN D.C.

# 699

Effective July 28, 2018

### Government Center – Downtown D.C.

Fairfax County Government Center •  
Fairfax Corner • US Department of State •  
George Washington University

#### Weekday Rush Hour Service Only



FAIRFAX  
CONNECTOR

For fares and important information  
about the bus system, see the brochure:

**Fares, Policies & General Information**



703-339-7200 TTY 703-339-1608

@ffxconnector f /fairfaxconnector

Fairfax County Department of Transportation (FCDOT) ensures nondiscrimination in all programs and activities in accordance with Title VI of the Civil Rights Act of 1964 and the Americans with Disabilities Act (ADA). To request this information in an alternate format, contact FCDOT at 703-877-5600, TTY 711.

Weekday – AM Eastbound Service	
Fairfax County Government Center Park & Ride	5:40
21st St NW & Virginia Ave NW	6:14
19th St NW & F St NW	6:23
Weekday – PM Westbound Service	
Fairfax County Government Center Park & Ride	3:25
21st St NW & Virginia Ave NW	3:45
19th St NW & F St NW	3:55

5:40	6:14	6:23	3:25	3:35	4:09
5:55	6:29	6:38	3:45	3:55	4:29
6:10	6:44	6:53	4:05	4:15	4:49
6:25	6:59	7:08	4:25	4:35	5:09
6:40	7:14	7:23	4:50	5:00	5:34
7:05	7:46	7:57	5:05	5:15	5:50
7:25	8:04	8:14	5:30	5:40	6:15
7:45	8:26	8:37	5:50	6:00	6:35
8:05	8:46	8:57	6:10	6:20	6:55
8:25	9:06	9:17	6:30	6:40	7:15



**LEGEND**

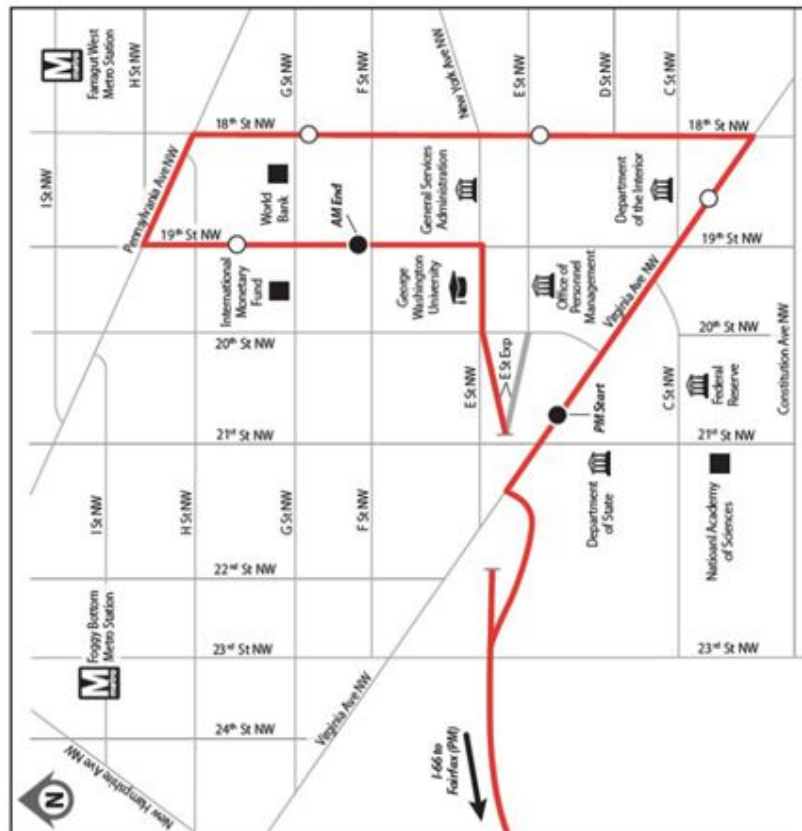
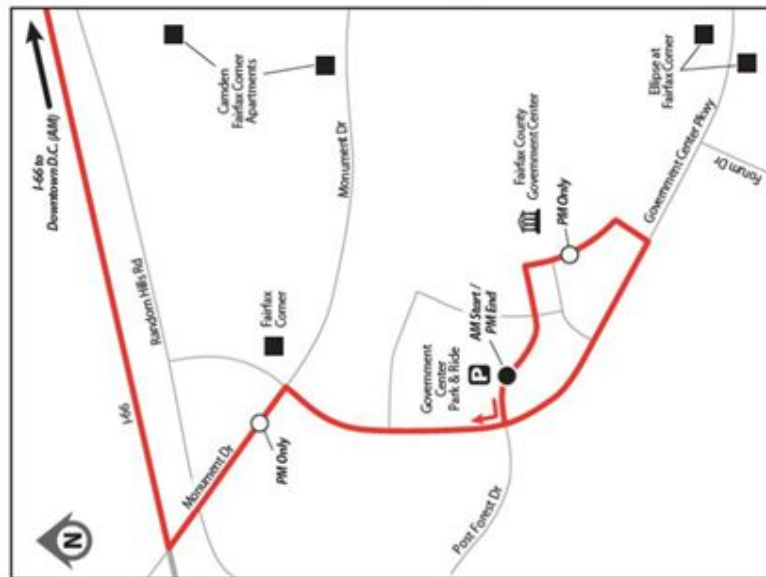
Route 699

Timepoint

Bus Stop

**ROUTE 699**

**Government Center - Downtown D.C.**



- Use exact fare; drivers do not carry change.
- Smoking, eating, drinking, and littering are strictly prohibited.
- Strollers must be folded.
- Use earphones with audio and video devices.
- Service animals are permitted on the bus. Other small animals are permitted only if transported in a closed pet carrier.

All Fairfax Connector buses are wheelchair accessible.

### Public Comment Summary

The following is a summary of public comments received regarding the July 2018 service change proposal. These include comments received through the end of the comment period on June 8, 2018, as well as comments received at the public meeting on May 17, 2018.

- Public meetings: 1
- Public meeting attendees: 0
- Written, email, and telephone comments: 6

Route(s)	Comment	Response
699	You could increase 699 ridership by originating the route at Reston south park and ride at Reston Parkway especially since you refuse to offer 599 Pentagon service from the Reston South lot.	Since Route 699 is funded through a grant from NVTC, there are no additional operation dollars for any extension past the Government Center. The planning staff will be conducting an analysis as part of the upcoming Silver Line Phase 2 Fairfax Connector Route Optimization Planning Effort. As part of this effort, we will examine possible linkages between Reston Parkway and the Pentagon. Recommendations from that effort will be implemented in concert with the opening of the Silver Line Phase 2 extension to Dulles Airport and Loudoun County.
699	It has been great to have those additional stops! Thanks!!	
699	I am a regular user of 699, and I support making the new stops permanent. These stops bring me 2 blocks closer to my destination of Farragut West metro stop.	
699	I really love the 699 bus. Is it possible to add some later buses so the last bus leaves dc after 7pm?  Thank You.	Planning staff will continue to review running times and customer input over the next six months and will consider additional adjustments to the Route 699 schedule.

699	<p>This bus has changed my life. Thank you. It's given me hours back each day to spend with family, exercise, volunteer—anything but sitting on the metro or in traffic. My husband thanks you because I'm home sooner, my friends thank because they see me more, my colleagues at work thank you because I show up in a fabulous mood and my dog thanks you for more walks. The drivers are always safe, friendly, and on time. Please thank them too. There's lots good about Fairfax county already and the 699 team is making it even better!</p>	
699	<p>Hello, I ride 699 to and from work daily. The bus always leaves on time. However, I pick up for the return ride home at 19th and F for the last pickup at 6:43. This bus is never on time at the last pick up. It is always 10+ minutes late. Today it was 18 minutes late. I always ask the driver why they are late and all I ever get is "traffic". There was an additional person in the bus today and we discussed the problem. She told me that they started the route 13 minutes late. I think the problem is that you are not allowing enough time for the bus to get back from finishing one route to start the next. Please review your procedures and make adjustments so that the buses will be able to make the published time schedule or adjust the schedule to reflect reality.</p>	<p>Planning staff have evaluated the Route 699 operations and schedule adherence. Schedule revisions will be implemented as part of the July 2018 service changes.</p>

## **Title VI Service Equity Analysis – Proposed July 2018 Fairfax Connector Service Changes**

### **Summary of Analysis Results**

The service changes proposed for implementation in July 2018 were reviewed as mandated by the Federal Transit Administration (FTA) in Circular C 4702.1B, *Title VI Requirements and Guidelines for Federal Transit Administration Recipients*. Two routes (171 and 699) are involved in these changes. Neither of these route changes met the major service change threshold. Therefore, no further disparate impact analysis/disproportionate burden analysis for these two routes will be required. The proposed changes will be a positive change for Fairfax Connector riders, and the communities along the routes.

### **Relevant Fairfax County Title VI Program Elements**

A service equity analysis may require the evaluation of as many as four items, depending on the nature of the route, the proposed changes to it, and the environment that it serves. The policies listed in this section are contained in the County's Title VI Program, as approved by the Board of Supervisors on July 25, 2017.

A major service change is defined as either an increase or a decrease of 25 percent or more in either daily revenue service hours, revenue service miles, or both for the individual route being modified.

A disparate impact occurs when the difference between minority riders and non-minority riders affected by a proposed service change or fare change is 10 percent or greater.

A disproportionate burden occurs when the difference between low-income riders and non-low-income riders affected by a proposed service change or fare change is 10 percent or greater.

An adverse effect occurs when the proposed service change meets any of the following criteria for minority populations and low-income populations:

- *New or Additional Service*: if other service was eliminated to release resources to implement it;
- *Headway Changes*: if headway(s) increase by at least 20 percent;

- *Alignment Changes*: if at least 15 percent of the alignment is eliminated or modified;
- *Span of Service Changes*: if the span of service decreases by at least 10 percent; or
- *Elimination of an entire route*.

“If a transit provider chooses not to alter the proposed service changes despite the potential disparate impact on minority populations, or if the transit provider finds, even after the revisions, that minority riders will continue to bear a disproportionate share of the proposed service change, the transit provider may implement the service change *only* if:

- “the transit provider has a substantial legitimate justification for the proposed service change; **and**
- “the transit provider can show that there are no alternatives that would have a less disparate impact on minority riders but would still accomplish the transit provider’s legitimate program goals.” (Circular C 4702.1B, page IV-16; emphasis in original.)

FCDOT measured the minority population living within the service area of the affected route alignments and compared the percentage of minority population within that area to the percentage of non-minorities living in the same service area to determine whether the service change will cause a disparate impact. The percentage of low-income households within the service area of the route alignment is also measured and compared to the percentage of non-low-income households in the same service area to determine whether a service change will cause a disproportionate burden.

## Overview

The routes included in the July 2018 service change include 171 and 699.

### Route 171 – Richmond Highway

- Due to low ridership and new Metrorail hours of operations, it is recommended that Fairfax Connector discontinue the last northbound and southbound Friday only trips on Route 171. The impact to riders will be limited, due to an average of about one passenger per trip. In many cases, these two trips operate without passengers on Friday.

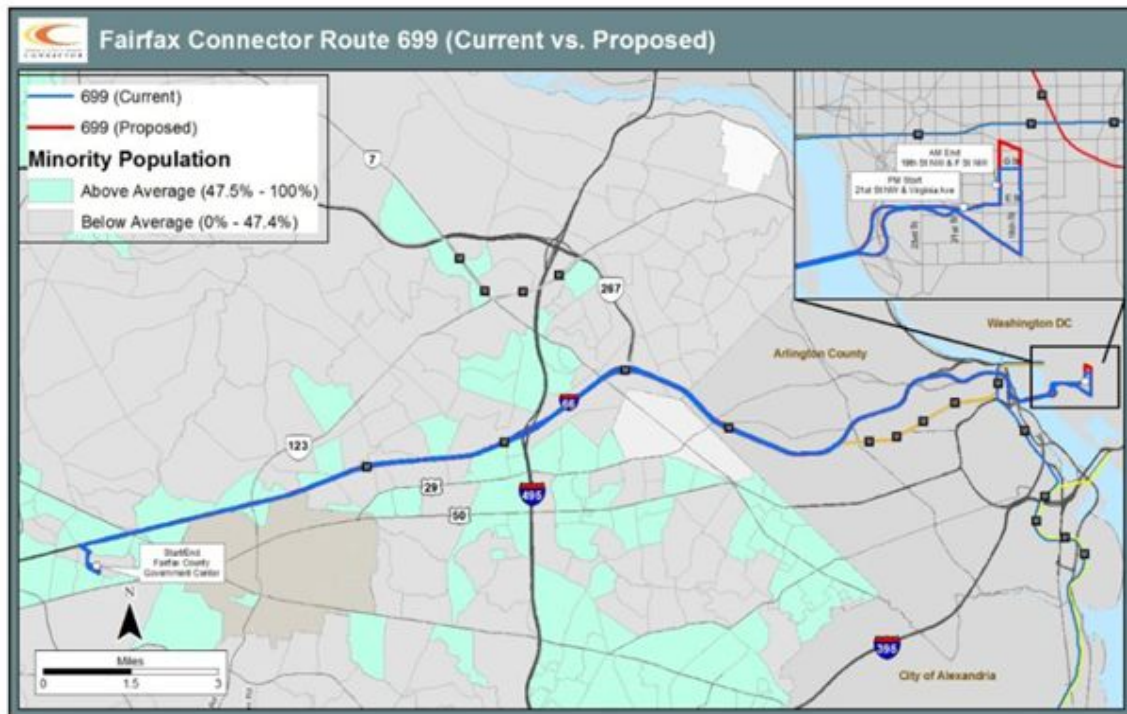
### Route 699 – Fairfax County Government Center – State Department

- This modified route will add two additional stops in Washington, D.C. (one on 18th Street NW and the other on 19th Street NW) (See Figure 1 below).

Figure 1 shows the current vs. proposed 699 route alignment between Fairfax County Government Center and State Department. The proposed alignment will be extended



north on 18<sup>th</sup> Street NW to Pennsylvania Avenue and then south back on 19<sup>th</sup> Street NW. This reroute will continue to serve all existing stops and will serve two additional stops in Washington D.C, reducing walking distances for riders accessing the World Bank, International Monetary Fund, and George Washington University campus.



**Figure 1: Route 699 current vs. proposed route map**

The two routes included in the service change were initially evaluated against the Major Service Change threshold defined in the County's Title VI Program.

Table 1 shows that none of the listed routes have met the Major Service Change threshold. Therefore, no further disparate impact analysis/disproportionate burden analysis for these two routes will be required.

**Table 1: Service Changes Proposed**

Route	Proposed Service Changes	Percent Changes in Revenue Hours			Percent Changes in Revenue Miles		
		Weekday	Sat	Sun	Weekday	Sat	Sun
<b>171</b>	Schedule adjustment	-0.3%	No change	No change	-0.4%	No change	No change
<b>699</b>	Route alignment adjustment and schedule adjustment	1.2%	N/A	N/A	1.1%	N/A	N/A

## **Conclusion**

The service changes proposed for implementation in July 2018 were reviewed as mandated by the Federal Transit Administration (FTA) in Circular C 4702.1B, *Title VI Requirements and Guidelines for Federal Transit Administration Recipients*. The analysis showed that the proposed service changes will not meet the major service change threshold, therefore, no disparate impact/disproportionate burden analysis is needed. Overall, the proposed minor service changes in July 2018 will improve service for Fairfax Connector riders, and the serviced communities along the routes.

Board Agenda Item  
July 10, 2018

ACTION - 10

Adoption of a Resolution of Support for Interchange Modification Report (IMR) for Route 267 (Dulles Airport Access Road) and Route 123 (Dolley Madison Boulevard) (Providence District)

ISSUE:

Board adoption of the attached resolution supporting a modification of the Dulles Airport Access Road eastbound off ramp terminus at Dolley Madison Boulevard.

RECOMMENDATION:

The County Executive recommends that the Board adopt the attached resolution (Attachment I) supporting a modification of the Dulles Airport Access Road eastbound off ramp terminus at Dolley Madison Boulevard (Route 123).

TIMING:

The Board should act on this item on July 10, 2018 to allow for the modification of the Dulles Airport Access Road (Route 267) eastbound off ramp at Dolley Madison Boulevard (Route 123).

BACKGROUND:

Cityline Partners LLC submitted a rezoning application for Scotts Run Station North (identified as RZ 2011-PR-009) for the property located on the northeast quadrant of the intersection of Dolley Madison Boulevard (Route 123) and Scotts Crossing Road. The Board of Supervisors approved the rezoning application on June 2, 2015. The rezoning included implementation of a new internal grid of streets. This internal grid of streets will provide the necessary roadway network to support this development and further the implementation of the grid of streets throughout Tysons. This grid allows alternative routes for traffic flow to be established, as well as pedestrian and bicycle facilities, which are key elements of the Comprehensive Plan for Tysons.

The proposed grid internal to the Scotts Run Station North development includes a new right-in/right-out street connection identified as North Dartford Drive. North Dartford Drive intersects Dolley Madison Boulevard (Route 123) to allow for both improved traffic flow and functionality accessing the development. With the implementation of North Dartford Drive, the Virginia Department of Transportation (VDOT) expressed concerns during the rezoning process regarding the location of the new intersection created by

Board Agenda Item  
July 10, 2018

North Dartford Drive at Dolley Madison Boulevard. VDOT's concern was the proximity of the new intersection to the existing eastbound off ramp of the Dulles Airport Access Road. This condition could create potential weaving conflicts associated with the current free-flow operation of the off ramp right turn lane. To address this concern, the applicant proposes to remove the existing free-flow right turn lane from the off ramp and replace it with signal controlled dual right turn lanes, with the outermost right turn lane tying directly into the dedicated right turn lane along Dolley Madison Boulevard (Route 123) to accommodate trips directly into the Scotts Run Station North development (as shown in Attachment IV).

For the applicant to construct the above improvements, approval of an Interchange Modification Report (IMR) by VDOT is required to modify the Dulles Airport Access Road (Route 267) eastbound off ramp with Dolley Madison Boulevard (Route 123). The applicant has completed the IMR for VDOT review. Fairfax County Department of Transportation (FCDOT) staff has reviewed the applicant's IMR and concurs that the proposed reconfiguration of the southbound free-flow right turn lane from the off ramp will address VDOT's safety concern and accommodate future demand for this intersection of North Dartford at Dolley Madison Boulevard (Route 123).

VDOT policy requires a resolution of support from the local governing body within which the Interchange Modification Report is proposed. FCDOT staff has reviewed the applicant's IMR and concurs that the proposed reconfiguration will address VDOT's safety concern and accommodate future demand for this intersection.

FISCAL IMPACT:  
None.

ENCLOSED DOCUMENTS:

Attachment I: Resolution  
Attachment II: Applicant Letter to VDOT  
Attachment III: Location Map (1)  
Attachment IV: Location Map (2)  
Attachment V: Location Map (3)

STAFF:

Robert A. Stalzer, Deputy County Executive  
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)  
Gregg Steverson, PE; PTOE; Division Chief, Site Analysis and Transportation Planning  
Jeffrey Hermann, AICP, Section Chief, Site Analysis, FCDOT  
Brittany Nixon, Transportation Planner II, Site Analysis, FCDOT

**RESOLUTION**

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium of the Fairfax County Government Center at Fairfax, Virginia, on Tuesday, July 10, 2018, at which meeting a quorum was present and voting, the following resolution was adopted.

WHEREAS, Cityline Partners LLC has submitted a rezoning application identified as RZ 2011-PR-009 on the property located on the northeast quadrant of the intersection of Dolley Madison Boulevard and Scotts Crossing Road (the “Property”), and;

WHEREAS, the Board of Supervisors approved the rezoning application on June 2, 2015, and;

WHEREAS, development of a new grid of connected streets providing alternative pathways for traffic flow and the addition of pedestrian and bicycle facilities are key elements of the Comprehensive Plan for Tysons, and;

WHEREAS, the proposed new grid of connected streets includes a new street connection identified as North Dartford Drive from Dolley Madison Boulevard to within the Property, and;

WHEREAS, to construct the North Dartford Drive street connection to Dolley Madison Boulevard requires approval of an Interchange Modification Report by the Virginia Department of Transportation for the Dulles Airport Access Road (Route 267) interchange with Dolley Madison Boulevard, and;

WHEREAS, to process this Interchange Modification, the Virginia Department of Transportation requires a resolution of support from the locality within which the Interchange Modification is proposed, and;

WHEREAS, County staff has reviewed the Interchange Modification Report and concurs with its findings.

NOW THEREFORE, BE IT RESOLVED, that this Board, in concept, supports the proposed Interchange Modification of the Dulles Airport Access Road (Route 267) interchange with Dolley Madison Boulevard.

A Copy Teste:

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Catherine A. Chianese  
Clerk to the Board of Supervisors

**WELLS + ASSOCIATES****MEMORANDUM**

1420 Spring Hill Road  
Suite 610  
Tysons, Virginia 22102  
703-917-6620  
703-917-0739 FAX  
www.mjwells.com

**TO:** Abraham Lerner, P.E.  
Virginia Department of Transportation

**FROM:** Robin L. Antonucci  
William F. Johnson, P.E.

**RE:** RZ 2011-PR-009; Scotts Run North  
Interchange Modification Report (IMR) for Route 267 at Route 123  
Fairfax County, Virginia  
VDOT Project No.: N/A  
VDOT UPC: N/A

**SUBJECT:** Framework Document

**DATE:** May 21, 2015  
Revised September 10, 2015

**Introduction**

Wells + Associates, on behalf of Cityline Partners, is preparing an Interchange Modification Report (IMR) associated with certain improvements at the interchange of Route 267 (Dulles Airport Access Road) and Route 123 (Dolley Madison Boulevard). In conjunction with the referenced rezoning (Scotts Run North), the Applicant (Cityline Partners) proffered a number of transportation network improvements/enhancements consistent with the recommendations of the Fairfax County Comprehensive Plan. Specifically, the Applicant will be providing new public street links as part of the grid of streets envisioned for the Tysons East District including North Dartford Drive and Grover Street.

Pursuant to Proffer 47.B., the Applicant seeks to provide a new partial movement intersection on the west side of Dolley Madison Boulevard (Southbound Route 123) between the Dulles Toll Road (Route 267) Eastbound off ramp and Scotts Crossing Road that will serve the new mixed-use development and accommodate the planned North Dartford Drive public street connection. Figure 1 provides a reduction of the approved conceptual development plan (CDP) associated with Scotts Run North.

During the course of the rezoning review process, VDOT expressed concerns regarding the location of the new intersection due to its proximity to the existing eastbound off ramp and potential weaving conflicts associated with the current free-flow operation of the off ramp right turn. VDOT indicated that modifications/improvements to the off

Transportation Consultants  
INNOVATION + SOLUTIONS



Figure 1  
CDP Reduction



North



ramp intersection might be necessary to mitigate any potential weaving conflicts in order for the proposed intersection to be permitted. In response, the applicant has proffered that any new inbound access along the west side of Route 123 between the Eastbound off ramp and Scotts Crossing Road would be contingent upon VDOT review and approval of an IMR describing the necessary improvements to the Eastbound off ramp and the Applicant's commitment to providing those improvements.

### **Framework Document Purpose**

Since the roadway network enhancements proposed by Cityline Partners would include the modification of the Route 267 Eastbound off ramp terminus at Route 123, an Interchange Modification Report (IMR) is required. This framework document outlines the approach proposed to be used in developing the IMR. Following FHWA concurrence with this IMR framework document, Wells + Associates will develop and submit the IMR prepared in accordance with the format outlined in VDOT IIM-LD-200.7, FHWA Interstate System Access Informational Guide, FHWA 2009 Interstate Access Policy, and FHWA (Virginia Division) Standard Operating Procedure for New or Revised Interstate Access Points (9/30/10).

It should be noted that the subject IMR is intended to address the proffered commitments cited above and is in no way related to any other IMR that may be filed by others in the future for other roadway improvements/modifications recommended in the Comprehensive Plan for Tysons East.

### **Project Justification**

**Purpose and Need.** In 2010, the Fairfax County Board of Supervisors adopted the "Transforming Tysons" amendment to the Comprehensive Plan. With the advent of metrorail service in Tysons, the Plan envisioned high density redevelopment in proximity to the four Tysons stations along with enhanced transportation infrastructure including a grid of streets. In response to the Plan amendment, Cityline Partners filed a rezoning application for the proposed Scotts Run North development (RZ 2011-PR-009) located west of Route 123 and south of Route 267. This project, if approved, will provide up to 1.5 Million square feet of transit-oriented, mixed-use development within ¼ mile of the McLean metrorail station. As shown on Figure 1, this development will provide for two new public streets including Grover Street and North Dartford Drive.

During the course of application review, VDOT staff indicated that the proposed connection of North Dartford Drive to Route 123 (as a right-in/right-out) can occur only if certain modifications are made to the existing free-flow right turn movement at



the Route 267 Eastbound off ramp terminus in order to eliminate any potential weaving maneuvers along Route 123 between the two intersections. Figure 2 illustrates the weaving concern identified by VDOT. In order to provide for the critical North Dartford Drive connection, as proffered, the applicant is preparing the subject IMR in order to modify the Route 267 Eastbound off ramp terminus. The proposed modifications would enable the completion of the grid of streets planned for this sector of Tysons, which will increase mobility for all modes as envisioned in the Comprehensive Plan.

**Policy Points.** Although Route 267 is not an interstate facility, and in order to further demonstrate that the proposed modifications meet the threshold for FHWA, this section provides a brief summary of proposed responses to the Eight Policy Points. Detail will be provided in the IMR to support each of these statements.

*Policy Point 1: Access Needs*

*The need being addressed by the request cannot be adequately satisfied by existing interchanges to the Interstate, and/or local roads and streets in the corridor can neither provide the desired access, nor can they be reasonably improved (such as access control along surface streets, improving traffic control, modifying ramp terminals and intersections, adding turn bays or lengthening storage) to satisfactorily accommodate the design-year traffic demands (23 CFR 625.2(a)).*

This policy point appears to apply to proposed new interchange locations. It should be noted that the proposed modification represents an operational improvement and is not intended to represent a new interchange location. Therefore, this policy point does not pertain to the subject IMR.

*Policy Point 2: Transportation System Management*

*The need being addressed by the request cannot be adequately satisfied by reasonable transportation system management (such as ramp metering, mass transit, and HOV facilities), geometric design, and alternative improvements to the Interstate without the proposed change(s) in access (23 CFR 625.2(a)).*

The need for the proposed modification is being addressed by implementing access improvements within an existing interchange rather than providing a new point of access. Therefore, this policy point does not pertain to the subject IMR.

*Policy Point 3: Operational and Collision Analyses*

*An operational and safety analysis has concluded that the proposed change in access does not have a significant adverse impact on the safety and operation of the Interstate facility (which includes mainline lanes, existing, new, or modified ramps, ramp intersections with crossroad) or on the local street network based on both the current and the planned*



Figure 2  
Weaving Illustration

← Weaving Movement →

North

*future traffic projections. The analysis shall, particularly in urbanized areas, include at least the first adjacent existing or proposed interchange on either side of the proposed change in access (23 CFR 625.2(a), 655.603(d) and 771.111(f)). The crossroads and the local street network, to at least the first major intersection on either side of the proposed change in access, shall be included in this analysis to the extent necessary to fully evaluate the safety and operational impacts that the proposed change in access and other transportation improvements may have on the local street network (23 CFR 625.2(a) and 655.603(d)). Requests for a proposed change in access must include a description and assessment of the impacts and ability of the proposed changes to safely and efficiently collect, distribute and accommodate traffic on the Interstate facility, ramps, intersection of ramps with crossroad, and local street network (23 CFR 625.2(a) and 655.603(d)). Each request must also include a conceptual plan of the type and location of the signs proposed to support each design alternative (23 U.S.C. 109(d) and 23 CFR 655.603(d)).*

In response to Policy Point 3, the following intersections in the vicinity of the existing ramp terminus will be evaluated as part of the IMR:

1. Dolley Madison Boulevard/Anderson Road/Route 267 Off ramp (IMR location)
2. Dolley Madison Boulevard/Old Meadow Road
3. Dolley Madison Boulevard/Scotts Crossing Road/Colshire Drive
4. Dolley Madison Boulevard/North Dartford Drive (Future)
5. Dolley Madison Boulevard/Lewinsville Road/Great Falls Street
6. Dolley Madison Boulevard/Route 267 offramp and onramp locations

Furthermore, the IMR will include a safety assessment of any proposed ramp modifications proposed as described later in this document.

*Policy Point 4: Full Access Interchanges*

*The proposed access connects to a public road only and will provide for all traffic movements. Less than "full interchanges" may be considered on a case-by-case basis for applications requiring special access for managed lanes (e.g., transit, HOVs, HOT lanes) or park and ride lots. The proposed access will be designed to meet or exceed current standards (23 CFR 625.2(a), 625.4(a)(2), and 655.603(d)).*

This policy point does not pertain to the subject IMR.

*Policy Point 5: Land Use and Transportation Plans*

*The proposal considers and is consistent with local and regional land use and transportation plans. Prior to receiving final approval, all requests for new or revised access must be included in an adopted Metropolitan Transportation Plan, in the adopted Statewide or Metropolitan Transportation Improvement Program (STIP or TIP), and the Congestion Management Process within transportation management areas, as*



*appropriate, and as specified in 23 CFR part 450, and the transportation conformity requirements of 40 CFR parts 51 and 93.*

The need for the subject IMR is based on the planning and development of the grid of streets envisioned in the Tysons Corner Urban Center Comprehensive Plan as adopted by the Fairfax County Board of Supervisors in 2010. Therefore, the proposal is consistent with those established local government planning policies.

*Policy Point 6: Review of Multiple System Modifications*

*In corridors where the potential exists for future multiple interchange additions, a comprehensive corridor or network study must accompany all requests for new or revised access with recommendations that address all of the proposed and desired access changes within the context of a longer-range system or network plan (23 U.S.C. 109(d), 23 CFR 625.2(a), 655.603(d), and 771.111).*

This policy point does not pertain to the subject IMR.

*Policy Point 7: Coordination*

*When a new or revised access point is due to a new, expanded, or substantial change in current or planned future development or land use, requests must demonstrate appropriate coordination has occurred between the development and any proposed transportation system improvements (23 CFR 625.2(a) and 655.603(d)). The request must describe the commitments agreed upon to assure adequate collection and dispersion of the traffic resulting from the development with the adjoining local street network and Interstate access point (23 CFR 625.2(a) and 655.603(d)).*

Based on the outcome of the analysis, improvements will be identified that may be necessary to mitigate the impacts on the limited access system resulting from the proposed ramp modifications. These improvements will be vetted through VDOT and appropriate FHWA personnel prior to final action on the IMR.

*Policy Point 8: Environmental Impact Review*

*The proposal can be expected to be included as an alternative in the required environmental evaluation, review and processing. The proposal should include supporting information and current status of the environmental processing (23 CFR 771.111).*

A detailed environmental review will not be included as part of the IMR. A VDOT EQ-112 checklist for Environmental Analysis for a Proposed Change in Limited Access will be filled out. Environmental impacts that have been identified will be addressed during the design phase of the proposed ramp modifications and associated improvements.

## **Interchange Modification Configuration**

As stated previously, the intent of the IMR is to recommend potential modifications to the existing Route 267 Eastbound off ramp terminus at Route 123. Specifically, and as shown on Figure 1, the applicant proposes to remove the existing free flow right turn movement and potentially replace it with controlled (i.e., signalized) dual right turn movements. As part of the Operational Analysis (OA) dated April 10, 2015 and submitted in support of the Scotts Run North rezoning application, the applicant has shown that signalized dual right turn lanes will be required to accommodate future traffic volumes forecasted therein. However, the subject IMR will confirm the adequacy of this improvement, as well as recommend specific design elements (i.e., turn bay lengths, etc.). The IMR will not suggest an interchange configuration where the operation of proposed signalized dual right turn lanes conflict with a controlled pedestrian phase. Supporting analysis will be documented as appropriate in this IMR.

## **Scoping Meeting**

A scoping meeting was held with VDOT, Fairfax County, and MWAA (Metropolitan Washington Airports Authority) staff along with representatives from the Applicant's project team on February 10, 2015. The policy points related to the proposed IMR were discussed along with specific analysis parameters to be applied to the study. The resulting scoping document was approved by VDOT on March 20, 2015. A copy of the signed scope is provided in Attachment I. The outcome of the scoping meeting is reflected below in this Framework document.

## **Proposed IMR Content**

The content of this IMR will satisfy the requirements of IIM-LD-200.7 and the proposed table of contents will be consistent with those noted in the same. Specifically, the IMR will be based on the following:

**Study Area.** In coordination with VDOT, the IMR will include an operational analysis within the study limits. Figure 3 shows the study area boundary and key intersections and roadway links in the project area under consideration for the traffic and operational analysis. The study area boundary includes intersections located south and north of the study intersection along Dolley Madison Boulevard. These intersections include the following:

1. Dolley Madison Boulevard/Anderson Road/Route 267 Off ramp (IMR location)
2. Dolley Madison Boulevard/Old Meadow Road
3. Dolley Madison Boulevard/Scotts Crossing Road/Colshire Drive



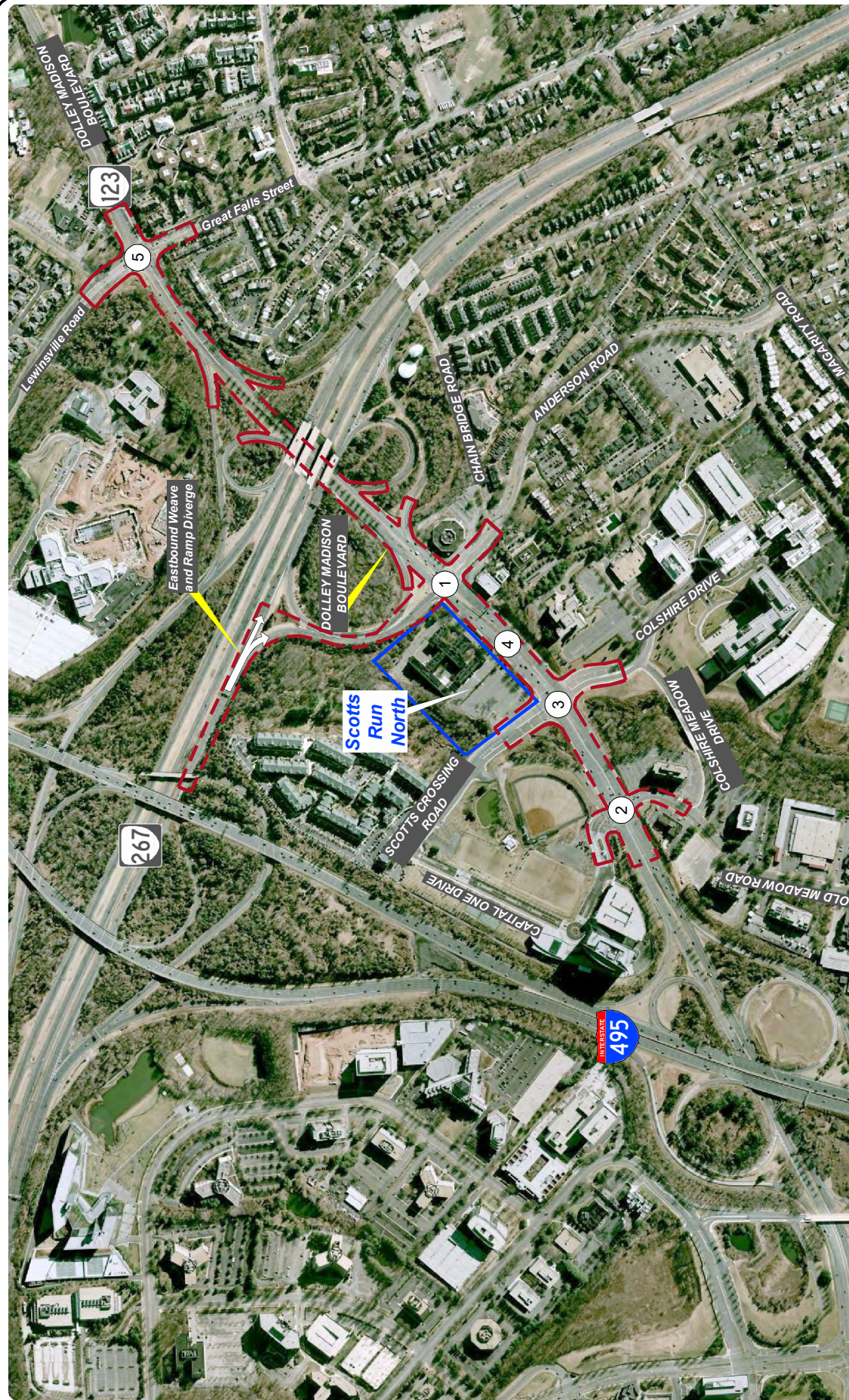


Figure 3  
Study Area and Intersection Locations

(X) Study Intersection

[ ] Study Area Boundary





4. Dolley Madison Boulevard/North Dartford Drive (Future)
5. Dolley Madison Boulevard/Lewinsville Road/Great Falls Street
6. Dolley Madison Boulevard/Route 267 offramp and onramp locations

Additionally, the study area includes the eastbound freeway segment immediately west of and including the Eastbound offramp to Dolley Madison Boulevard. The report will include an analysis of the basic freeway segment, as well as the ramp diverge and upstream weave at this location.

**Existing Conditions.** The existing conditions analysis will be based on new traffic counts to be conducted in 2015 at the study intersections and freeway segment noted above and shown on Figure 3. Vehicular traffic and pedestrian/bicycle counts will be conducted on a typical weekday subject to the following constraints:

- Counts will be conducted on a Tuesday, Wednesday, or Thursday.
- Non-holiday week when County public schools are in session.
- 6:00 AM-9:00 AM and 4:00 PM-7:00 PM.

The weekday AM and PM peak hours will be extracted from the counts and will serve as the base for the analysis.

**Analysis Years.** Based on discussions with VDOT and as noted in the approved scoping document, the IMR analysis will assume a build-out year of 2020 and a design year of 2040.

**Traffic Forecasting Methodology.** The 2020 and 2040 future traffic forecasts will be based on the “General Build Out” results included in the Tysons East Consolidated Traffic Impact Analysis (CTIA) prepared by Fairfax County (dated February 19, 2013) and accepted by VDOT. The use of these forecasts provides for consistency of future forecasts at all the study intersections and includes all current and future pipeline developments in the Tysons East District.

Since the proposed IMR analysis years of 2020 and 2040 do not coincide with the CTIA analysis years of 2030 and 2050, it was decided that the CTIA forecasts should be factored to translate the volumes to the appropriate forecast years. Pursuant to discussions with VDOT and FCDOT, the 2020 and 2040 forecasts for the Route 123/Scotts Crossing Road/Colshire Drive intersection from the Jones Branch Connector IMR (conducted by Fairfax County) will be compared to the CTIA volumes for the same intersection. Based on that comparison, adjustment factors will be developed that will then be applied to the CTIA intersection volumes at the other study intersections. The resulting traffic forecasts proposed to be evaluated in this IMR for the 2020 and 2040 analysis years will be submitted to VDOT under separate cover for

review. These forecasts may be further adjusted based on feedback from VDOT prior to completing the IMR analysis and report.

**Traffic Operational Analysis.** VISSIM software (version 6) will be used to evaluate operations (levels of service and 50<sup>th</sup> and 95<sup>th</sup> percentile queues) at the study intersections during the AM and PM peak hours. The field measured peak hour factors (PHF's) will be adjusted to  $0.85 < \text{PHF} < 0.92$  under existing condition. Future conditions 2020 and 2040 will include a PHF of 0.92 for all approaches at study intersections. Total lost time will be adjusted to 3.0 seconds for all movements. Existing conditions will include signal timings received from VDOT Northern Regional Operations (NRO) as provided in the current Synchro base files. Percent heavy vehicles used in the VISSIM analysis will be based on the 2014 VDOT traffic count data.

The analysis model will also account for the presence of pedestrians/bicycles at the study intersections. The VISSIM files will assume an appropriate number of pedestrian signal calls in order to determine the impact to overall intersection capacity.

The operational analysis will follow the parameters set forth in the VDOT Traffic Operations Analysis Tool Guidebook ("TOATG" Version 1.1) and will be conducted based on the following assumptions and scenarios:

1. The analysis will assume the completion of the Scotts Crossing Road connection to Jones Branch Drive (the Jones Branch Connector) over Interstate 495.
2. The future conditions analysis for 2020 and 2040 will be conducted assuming Route 123 remains in its current configuration (i.e., without the proposed SuperStreet improvement).
3. The 2020 and 2040 conditions analysis will include the completion of the applicable road improvements proffered by all pipeline projects.
4. The future conditions analysis for 2020 and 2040 will be conducted under the following scenarios:
  - a. Existing ramp intersection geometry and operations (i.e., "No Build").
  - b. The right turn movement from the ramp terminus to southbound Route 123 will be evaluated as a single lane with the free-flow operation replaced with signal control.
  - c. The right turn movement from the ramp terminus to southbound Route 123 will be evaluated as dual right-turn lanes with the free-flow operation replaced with signal control.

The existing conditions analysis model will be calibrated in accordance with the TOATG Version 1.1. For purposes of this analysis, the calibration thresholds summarized in Attachment II will be applied.



Synchro software will be used to optimize signal timing/phasing as may be applicable, under the future conditions analysis. Such timing information will be exported to the VISSIM model. The measures of effectiveness (MOEs) documented in the IMR will be based on VISSIM outputs and will include the following:

- Intersection delay
- Queue Length (50<sup>th</sup> and 95<sup>th</sup> percentile)
- Density (freeway network)
- Speed (arterial network)

These MOEs will be summarized and discussed in the report by movement.

**Safety Analysis.** Crash data for the last 3-5 years along the study area road segment along Route 123 will be requested from VDOT and included in the IMR. Furthermore, the IMR will include a qualitative discussion of the potential safety impacts of the proposed geometric modifications.

**Sight Distance Analysis.** As part of the IMR, a sight distance analysis will be performed at the ramp terminus in conjunction with any proposed improvements/modifications. The sight distance analysis will include 1) intersection sight distance, 2) stopping sight distance along the ramp, and 3) sight distance for future signal head locations. Sight line exhibits including horizontal, vertical, and combination horizontal/vertical will be provided in the submitted IMR. The sight distance analysis will include any impacts associated with the metrorail support piers.

## **Project Funding**

Pursuant to proffer 47.B.(i), the applicant has committed to fully fund the ramp improvements/modifications as may be identified in the subject IMR in order to provide the North Dartford Drive connection to Route 123 as qualified therein. The proffer reads as follows:

“At such time as the Applicant completes and VDOT and FHWA approve an Interchange Modification Request [Report] (IMR) associated with the DAAR Eastbound Off-ramp at Route 123, then the connection of North Dartford Drive, as shown on on Sheet C5.0 of the CDP, shall be constructed to permit right-in/right-out movements to/from Route 123. Those improvements identified in the IMR as needed to mitigate any impacts associated with the connection of North Dartford to Route 123 and deemed necessary by VDOT and/or FHWA shall be constructed by the Applicant as qualified below:

- a. If the level of improvements necessary to facilitate the connection of North Dartford Drive to Route 123 are determined to be, in sole discretion of the Applicant, too costly to construct, then the Applicant shall be limited to the level of development outlined in Proffer 49.A.(i) until such time as the Future Connector Road is constructed and open for public use between Scotts Crossing Road and DAAR Eastbound Off-ramp.”

A copy of the approved proffers, dated May 29, 2015, is provided herein as Attachment III.

### **Summary**

Wells + Associates requests VDOT and FHWA’s concurrence with the proposed approach to developing the IMR for the Route 267 Off ramp modifications as described herein. The IMR document will follow established VDOT (IIM-LD-200.7) and FHWA procedures and the Applicant and its consultants will perform all related studies and design work associated with this effort.

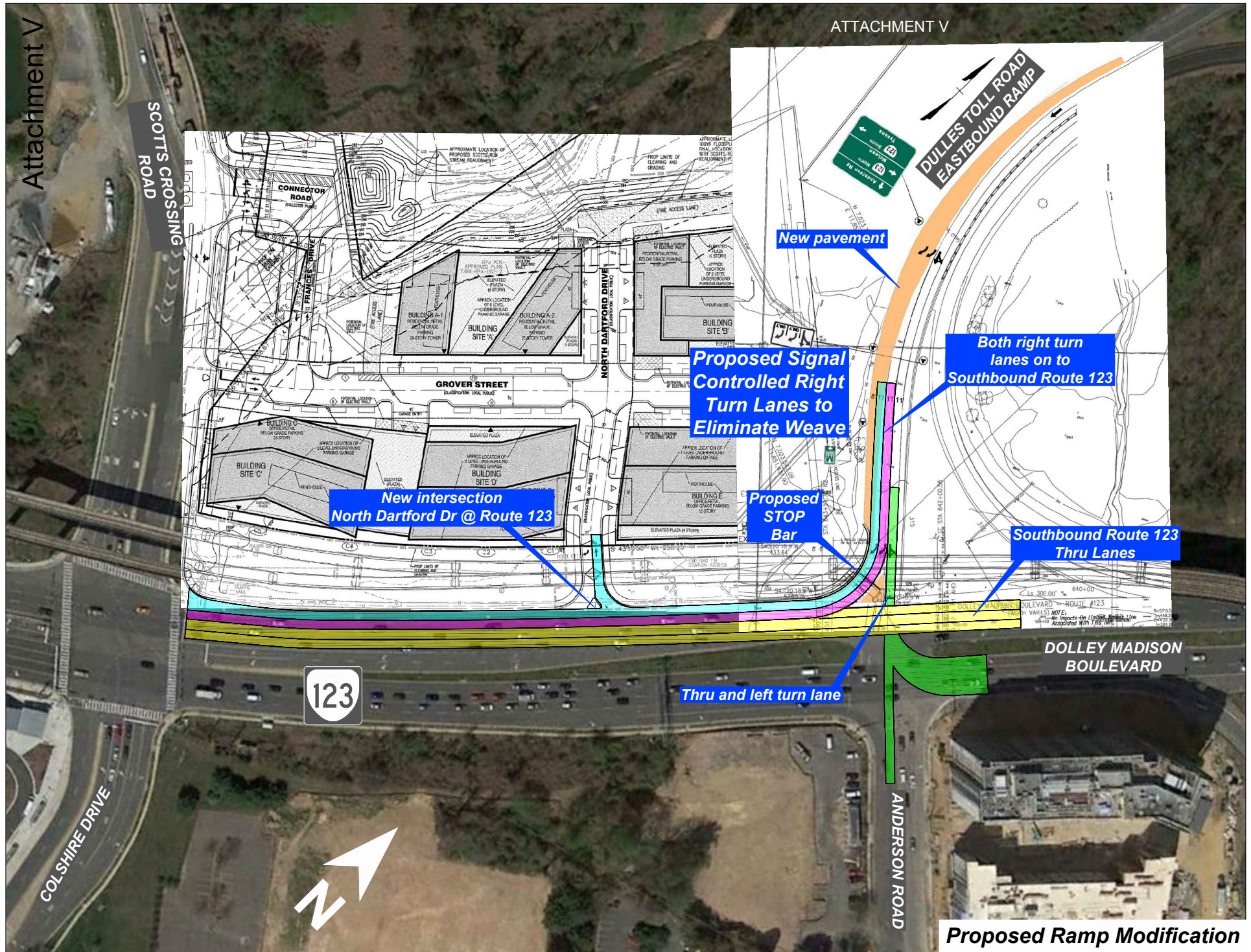
Attachments: a/s











ACTION - 11

Adoption of a Resolution Approving the Issuance of Revenue Funding Bonds by the Economic Development Authority for the National Wildlife Federation (Hunter Mill District)

ISSUE:

Requesting that the Fairfax County Economic Development Authority issue up to \$15,000,000 revenue bonds for the benefit of the National Wildlife Federation.

RECOMMENDATION:

The County Executive recommends that the Board adopt the attached resolution.

TIMING:

Board action is requested on July 10, 2018.

BACKGROUND:

The Fairfax County Economic Development Authority has received a request from the National Wildlife Federation (NWF). The NWF seeks the issuance of tax-exempt bonds in an amount up to \$15,000,000, which will be used for the following purposes:

- 1) To refinance prior obligations of the Borrower, which prior obligations were used to finance and refinance all or a portion of the cost of the acquisition, construction, equipping and furnishing of a new headquarters facility comprising four stories and approximately 100,000 square feet of commercial office space and related parking facilities located at 11100 Wildlife Center Drive, Reston, Virginia 20190, as well as other property functionally related and subordinate thereto, and
- 2) To finance costs related to a debt service reserve fund, costs of issuance, capitalized interest, capital improvements, working capital, routine capital expenditures at the Facility and expenses in connection with the issuance of the bonds

FISCAL IMPACT:

The NWF continues to be a stable contributor to our local economy. NWF expects to expend approximately \$11.8 million dollars for goods and services that will be purchased from Virginia companies within Fairfax County. Staff salaries average \$80,000 per year and this project will allow NWF to continue to enhance its presence in Fairfax County and its programming.

Board Agenda Item  
July 10, 2018

ENCLOSED DOCUMENTS:

Attachment 1 - Resolution of the Board of Supervisors

Attachment 2 - Certificate of Public Hearing with supporting documents

Attachment 3 – Fiscal Impact Statement

STAFF:

Gerald I. Gordon, PhD, Director, Fairfax County Economic Development Authority

Thomas O. Lawson, Esq., Counsel to Fairfax County Economic Development Authority

**RESOLUTION  
OF THE BOARD OF SUPERVISORS OF  
FAIRFAX COUNTY, VIRGINIA**

WHEREAS, the Fairfax County Economic Development Authority (the "Authority") has approved the application of National Wildlife Federation ("NWF"), a District of Columbia nonprofit corporation, whose primary business address is 11100 Wildlife Center Drive, Reston, Virginia 20190 (the "Property"), requesting that the Authority issue up to \$15,000,000 of its revenue bonds in one or more tax-exempt or taxable series at one time or from time to time (the "Bonds") to provide funds to NWF:

(1) to refinance prior obligations of NWF, which prior obligations were used to finance and refinance all or a portion of the cost of the acquisition, construction, equipping and furnishing of a new headquarters facility comprising four stories and approximately 100,000 square feet of commercial office space, and related parking facilities located at the Property, as well as other property functionally related and subordinate thereto, and

(2) to finance costs related to a debt service reserve fund, costs of issuance, capitalized interest, capital improvements, working capital, routine capital expenditures at the Property and expenses in connection with the issuance of the Bonds (collectively (1) and (2), the "Plan of Finance").

WHEREAS, on June 13, 2018, the Authority held a public hearing regarding the Plan of Finance;

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), provides that the governmental unit having jurisdiction over the issuer of private activity bonds and over the area in which any facility financed with the proceeds of private activity bonds is located must approve the issuance of the bonds and Section 15.2-4906 of the Industrial Development and Revenue Bond Act, Chapter 49, Title 15.2, Code of Virginia of 1950; as amended (the "Act") sets forth the procedure for such approval;

WHEREAS, the Authority issues its bonds on behalf of Fairfax County, Virginia (the "County"), the facilities to be financed and refinanced with the proceeds of the Bonds are located in the County and the Board of Supervisors of Fairfax County, Virginia (the "Board"), constitutes the highest elected governmental unit of the County;

WHEREAS, the Authority has recommended that the County approve the Plan of Finance and the issuance of the Bonds; and

WHEREAS, a copy of the Authority's resolution approving the issuance of the Bonds, a certificate of the public hearing and a Fiscal Impact Statement have been filed with the Board.



**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS  
OF FAIRFAX COUNTY, VIRGINIA:**

1. The Board hereby approves the issuance of the Bonds, in an aggregate principal amount up to \$15,000,000, by the Authority for the benefit of NWF, solely to the extent required by Section 147(f) of the Code and Section 15.2-4906 of the Act, to permit the Authority to assist in accomplishing the Plan of Finance.

2. The approval of the issuance of the Bonds does not constitute an endorsement to a prospective purchaser of the Bonds of the creditworthiness of the Plan of Finance or NWF. In accordance with Section 15.2-4909 of the Act, the Bonds shall not be deemed to constitute a debt or a pledge of the faith and credit or taxing power of the Commonwealth of Virginia or any political subdivision thereof, including the Authority and the County.

3. This resolution shall take effect immediately upon its adoption.

Adopted by the Board of Supervisors of Fairfax County, Virginia, on July 10, 2018.

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Clerk  
Board of Supervisors of Fairfax County, Virginia

[SEAL]

**CERTIFICATE**

The undersigned Secretary of the Fairfax County Economic Development Authority (the "Authority"), hereby certifies as follows:

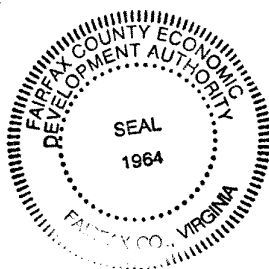
1. A meeting of the Authority was duly called and held on Wednesday, June 13, 2018, at 6:00 p.m., before the Authority, at the Authority's offices at 8300 Boone Boulevard, Suite 450, Vienna, Virginia 22182, pursuant to proper notice given to each Commissioner of the Authority before such meeting. The meeting was open to the public. The time of the meeting and the place at which the meeting was held provided a reasonable opportunity for persons of differing views to appear and be heard.

2. The Chairman announced the commencement of a public hearing on the application of National Wildlife Federation, a District of Columbia nonprofit corporation, and that a notice of the hearing was published once a week for two successive weeks in a newspaper having general circulation in Fairfax County, Virginia (the "Notice"), with the second publication appearing not less than six days nor more than twenty-one days prior to the hearing date. A copy of the Notice has been filed with the minutes of the Authority and is attached as Exhibit A.

3. A summary of the statements made at the public hearing is attached as Exhibit B.

4. Attached as Exhibit C is a true, correct and complete copy of the resolution (the "Resolution") adopted at such meeting of the Authority by a majority of the Commissioners present at such meeting. The Resolution constitutes all formal action taken by the Authority at such meeting relating to matters referred to in the Resolution. The Resolution has not been repealed, revoked, rescinded or amended and is in full force and effect on this date.

WITNESS my hand and the seal of the Authority, as of June 13, 2018.



[SEAL]

Secretary, Fairfax County Economic Development Authority

**Exhibits:**

- A - Copy of Certified Notice
- B - Summary of Statements
- C - Approving Resolution

**EXHIBIT A**

**NOTICE OF PUBLIC HEARING**

PROOF OF PUBLICATION

District of Columbia, ss., Personally appeared before me, a Notary Public in and for the said District, Sandra Broadstone well known to me to be ASSISTANT MANAGER BILLING of The Washington Post, a daily newspaper published in the City of Washington, District of Columbia, and making oath in due form of law that an advertisement containing the language annexed hereto was published in said newspaper on the dates mentioned in the certificate herein.

I Hereby Certify that the attached advertisement was published in The Washington Post, a daily newspaper, upon the following date(s) at a cost of \$2,928.72 and was circulated in the Washington metropolitan area.

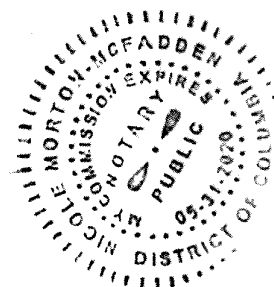
Published 2 time(s). Date(s): 30 of May 2018  
 06 of June 2018

Account 2010049094

*Sandra Broadstone*

Witness my hand and official seal this 10th day of June 20 18

*[Signature]*  
7/3/2018



My commission expires \_\_\_\_\_

NOTICE OF PUBLIC HEARING TO BE HELD BY THE FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY FOR THE BENEFIT OF NATIONAL WILDLIFE FEDERATION Notice is hereby given that the Fairfax County Economic Development Authority (the "Authority") whose address is 8300 Boone Boulevard, Suite 450, Vienna, Virginia 22182, will hold a public hearing on the issuance of up to \$15,000,000 of its revenue bonds

(the "Bonds"), in one or more taxable or tax-exempt series from time to time, to assist National Wildlife Federation ("NWF"), an organization which is described in Section 501(c)(3) of the Internal

Revenue Code of 1986, as amended, whose address is 11100 Wildlife Center Drive, Reston, Virginia 20190 (the "Property"), in (1) refinancing prior obligations of NWF, which prior obligations were used to finance and refinance all or a portion of the cost of the acquisition, construction, equipping and furnishing of a new headquarters facility comprising four stories and approximately 100,000 square feet of commercial office space, and related parking facilities located at the Property, as well as other property functionally related and subordinate thereto, and (2) financing

costs related to a debt service reserve fund, costs of issuance, capitalized interest, capital improvements, working capital, routine capital expenditures at the Property and expenses in connection with the issuance of the Bonds. The Bonds will not constitute a debt or pledge of the faith and credit of the Commonwealth of Virginia (the "Commonwealth") or any political subdivision

thereof, including the Authority and Fairfax County, Virginia. Neither the faith and credit nor the

taxing power of the Commonwealth nor any political subdivision thereof, including the Authority and

Fairfax County, Virginia, will be pledged to the payment of the principal of or interest on such Bonds or other costs incident thereto. The public hearing, which may be continued or adjourned, will be held on Wednesday, June 13, 2018, at 6:00 p.m., before the Authority at its offices at 8300

Boone Boulevard, Suite 450, Vienna, Virginia 22182. Any person interested in the issuance of the Bonds or the location or nature of the proposed project may appear at the hearing and present his or

Ad # 12186093      Name MCGUIREWOODS LLP ATTN: KATHERINE EMBREY      Size 122 Lines      T0005  
Class 820      PO#      Authorized by      Account 2010049094

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her views. A copy of NWF's application is on file and is open for inspection at the office of the  
Authority's counsel, Thomas O. Lawson, Esquire at 10805 Main Street, Suite 200, Fairfax, Virginia  
22030, during normal business hours. Fairfax County Economic Development Authority [Publish on  
May  
30 and June 6]

## **EXHIBIT B**

### **Summary of Statements**

[Representatives of National Wildlife Federation and McGuireWoods LLP, bond counsel, appeared before the Authority to describe the project and the proposed bond issue. No one appeared in opposition to the proposed bond issue.]

**RESOLUTION OF THE FAIRFAX COUNTY ECONOMIC DEVELOPMENT  
AUTHORITY AUTHORIZING THE ISSUANCE AND SALE OF ITS REVENUE BONDS  
IN A PRINCIPAL AMOUNT NOT TO EXCEED \$15,000,000 FOR THE BENEFIT OF  
NATIONAL WILDLIFE FEDERATION**

A. The Fairfax County Economic Development Authority a political subdivision of the Commonwealth of Virginia (the "Authority"), is empowered by the Virginia Acts of Assembly, 1964, Chapter 643, as amended (the "Act"), to issue its revenue bonds and notes for, among other purposes, the financing and refinancing of facilities for use by organizations (other than organizations organized and operated exclusively for religious purposes) that are described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code") and are exempt from federal income taxation pursuant to Section 501(a) of the Code;

B. The Authority has received an application from National Wildlife Federation, a District of Columbia nonprofit corporation (the "Borrower"), requesting the Authority to issue and sell its revenue bonds from time to time and in one or more tax-exempt or taxable series (the "Bonds"), pursuant to the Act, for the purpose of assisting the Borrower with:

(1) refinancing prior obligations of the Borrower, which prior obligations were used to finance and refinance all or a portion of the cost of the acquisition, construction, equipping and furnishing of a new headquarters facility comprising four stories and approximately 100,000 square feet of commercial office space, and related parking facilities located at 11100 Wildlife Center Drive, Reston, Virginia 20190 (the "Facility"), as well as other property functionally related and subordinate thereto, and

(2) to finance costs related to a debt service reserve fund, costs of issuance, capitalized interest, capital improvements, working capital, routine capital expenditures at the Facility and expenses in connection with the issuance of the Bonds (collectively (1) and (2), the "Plan of Finance").

C. The Plan of Finance has been described to the Authority and a public hearing has been held on June 13, 2018 as required by Section 147(f) of the Code and the Act.

D. The Borrower, in its application to the Authority, has requested the Authority to issue the Bonds under the Act in a maximum principal amount not to exceed \$15,000,000 for purposes of accomplishing the Plan of Finance.

E. The Authority will issue the Bonds pursuant to a Bond Trust Indenture (the "Bond Indenture") between the Authority and a bond trustee to be selected by the Borrower (the "Bond Trustee").

F. The Authority will loan the proceeds of the Bonds to the Borrower pursuant to a Loan Agreement (the "Loan Agreement") between the Authority and the Borrower, and the Borrower will evidence its payment obligations with respect to the Bonds by a promissory note from the Borrower to the Authority in the principal amount equal to the principal amount of the Bonds (the "Note").

G. The Bonds are expected to be offered for sale by Morgan Stanley & Co. LLC ("Morgan Stanley") or a group of underwriters managed by such firm (collectively, the "Underwriters") pursuant to a Bond Purchase Contract (the "Bond Purchase Agreement") dated the date of its execution and delivery, among the Authority, the Borrower and Morgan Stanley on behalf of itself or as a representative for the Underwriters.

H. The Bonds will be offered for sale by the Underwriters and there will be a disclosure document in the form of an official statement in preliminary form to be dated the date of its delivery (the "Preliminary Official Statement"), prepared under the direction of the Borrower in connection with the offering and sale of the Bonds.

I. The Authority will assign the Note to the Bond Trustee pursuant to the Bond Indenture.

J. The Bonds, the Bond Indenture, the Loan Agreement, the Bond Purchase Agreement, the Preliminary Official Statement and the assignment of the Note, forms of which have been presented to this meeting and filed with the Authority's records, are referred to below as the "Authority Documents."

K. No Commissioner of the Authority is an officer or employee of Fairfax County, Virginia, each Commissioner has, before entering upon his or her duties during his or her present term of office, taken and subscribed to the oath prescribed by Section 49-1 of the Code of Virginia of 1950, as amended, and at the time of their appointments and at all times thereafter, including the date hereof, all of the Commissioners of the Authority have satisfied the residency requirements of the Act.

L. No Commissioner of the Authority has any personal interest or business interest in the Borrower or the proposed Bonds or has otherwise engaged in conduct prohibited under the Conflict of Interests Act, Chapter 31, Title 2.2 of the Code of Virginia of 1950, as amended, in connection with this resolution or any other official action of the Authority in connection therewith.

**NOW, THEREFORE, BE IT RESOLVED BY THE FAIRFAX COUNTY ECONOMIC DEVELOPMENT AUTHORITY:**

1. It is hereby found and determined that the Plan of Finance will be in the public interest and will promote the commerce, safety, health, welfare, convenience or prosperity of the Commonwealth of Virginia, Fairfax County, Virginia and their citizens.

2. The Authority recommends that the Board of Supervisors of Fairfax County, Virginia approve the Plan of Finance and the issuance of the Bonds.

3. The issuance of the Bonds in the aggregate principal amount not to exceed \$15,000,000 upon the terms and conditions set forth below is hereby approved; provided, however, that (i) the final maturity of the Bonds shall not be later than 40 years from the issuance thereof, and (ii) the interest rates borne by the Bonds shall not exceed the maximum rate permitted by law (collectively, the "Financing Terms").



4. The Chairman, Vice Chairman and any other officer of the Authority, any of whom may act (the "Authorized Official") are hereby authorized and directed to execute and deliver (i) the Bonds, which may be issued in one or more series as tax-exempt or taxable bonds and which shall bear interest at the rates, shall mature on such dates and shall be subject to redemption at such times as are set forth in the Authority Documents and (ii) the other Authority Documents to the parties thereto upon approval of their final form, terms and conditions. The Authorized Official is further authorized to approve the final terms of the Bonds and the other Authority Documents; provided that such terms are consistent with the Financing Terms. Such approvals shall be evidenced conclusively by the execution and delivery of the Bonds and the other Authority Documents. The Secretary of the Authority (the "Secretary") is hereby authorized to affix the seal of the Authority to the Bonds and, if required, the other Authority Documents and to attest such seal. The signatures of the Authorized Official and the Secretary (or such other officer) and the seal of the Authority may be by facsimile.

5. The sale of the Bonds to the Underwriters pursuant to the Bond Purchase Agreement is hereby approved.

6. The Authority Documents shall be in substantially the forms as submitted to this meeting, which are hereby approved, with such changes, insertions or omissions (including, without limitation, changes of the dates thereof and the principal amount of the Bonds, subject to the \$15,000,000 maximum) as may be approved by the Authorized Official executing them, his or her execution to constitute conclusive evidence of the approval of any such changes, insertions or omissions. The performance by the Authority of the Authority Documents is hereby authorized and directed.

7. The use and distribution by the Underwriters of the Preliminary Official Statement are in all respects authorized, ratified and approved. For purposes of Rule 15c2-12 of the Securities and Exchange Commission, the Authorized Official is hereby authorized to deem the Preliminary Official Statement relating to the Bonds final except for information permitted to be omitted under paragraph (b)(1) of such Rule. The Authorized Official is hereby authorized and directed to execute and deliver the Authority's approval of the final official statement (the "Official Statement") upon approval of its form, terms and conditions. Such officer's execution shall constitute conclusive evidence of his approval of such form, terms and conditions. Execution of the final Official Statement shall constitute conclusive evidence that the Official Statement has been deemed final within the meaning of Rule 15c2-12.

8. The Official Statement and its use and distribution by the Underwriters is hereby authorized and approved.

9. The Authorized Official is authorized and directed to execute and deliver on behalf of the Authority such instruments, documents or certificates, and to do and perform such things and acts, as he or she deems necessary or appropriate to carry out the transactions authorized by this Resolution or contemplated by the Authority Documents or such other instruments, documents or certificates, and all of the foregoing, previously done or performed by such officers of the Authority, are in all respects approved, ratified and confirmed.

10. At the request of the Borrower, the Authority approves McGuireWoods LLP, Tysons, Virginia, as Bond Counsel in connection with the issuance of the Bonds.

11. All costs and expenses in connection with the undertaking of the Plan of Finance, including the fees and expenses of the Authority, Bond Counsel and Authority Counsel, shall be paid by the Borrower or, to the extent permitted by applicable law, from the proceeds of the Bonds. If, for any reason, such Bonds are not issued, it is understood that all such expenses shall be paid by the Borrower and that the Authority shall have no responsibility therefor.

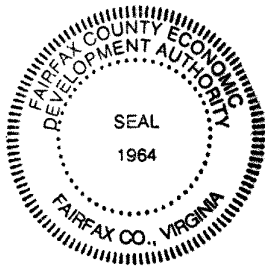
12. No Bonds may be issued pursuant to this resolution until such time as the issuance of the Bonds has been approved by the Board of Supervisors of Fairfax County, Virginia.

13. The Bonds shall be limited obligations of the Authority. Neither the commissioners, officers, agents or employees of the Authority, past, present and future, nor any person executing the Bonds, shall be liable personally on the Bonds by reason of the issuance thereof. The Bonds will not constitute a debt or pledge of the faith and credit of the Commonwealth of Virginia or any political subdivision thereof, including the Authority and Fairfax County, Virginia, and neither the faith and credit nor the taxing power of the Commonwealth of Virginia or any political subdivision thereof, including the Authority and Fairfax County, Virginia, will be pledged to the payment of such Bonds.

14. Subject to paragraph 12, this resolution will take effect immediately upon its adoption.

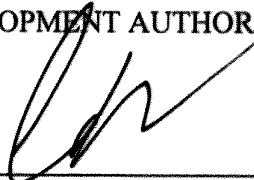
The undersigned hereby certifies that the above resolution was duly adopted by a majority of the commissioners of the Fairfax County Economic Development Authority at a meeting duly called and held on June 13, 2018, and that such resolution is in full force and effect on the date hereof.

Dated: June 13, 2018



[SEAL]

FAIRFAX COUNTY ECONOMIC  
DEVELOPMENT AUTHORITY

  
\_\_\_\_\_  
Secretary

# **FISCAL IMPACT STATEMENT FOR PROPOSED BOND FINANCING**


Date: June 13, 2018

To the Board of Supervisors of Fairfax County, Virginia

**Borrower:** National Wildlife Federation ("NWF")

**Facility/** Refinancing prior obligations of NWF, which prior obligations were used to  
**Plan of** finance and refinance all or a portion of the cost of the acquisition, construction,  
**Finance:** equipping and furnishing of a new headquarters facility comprising four stories  
 and approximately 100,000 square feet of commercial office space, and related  
 parking facilities located at the 11100 Wildlife Center Drive, Reston, Virginia  
 20190 (the "Property"), as well as other property functionally related and  
 subordinate thereto, and (2) financing costs related to a debt service reserve fund,  
 costs of issuance, capitalized interest, capital improvements, working capital,  
 routine capital expenditures at the Property and expenses in connection with the  
 issuance of the bonds.

1.	Maximum amount of financing sought	\$15,000,000
2.	Estimated taxable value of the facility's real property to be constructed in the locality.	0
3.	Estimated real property tax per year using present tax rates.	0
4.	Estimated personal property tax per year using present tax rates.	0
5.	Estimated merchants' capital tax per year using present tax rates.	0
6.	(a) Estimated dollar value per year of goods that will be purchased from Virginia companies within the locality	\$11,896,841
	(b) Estimated dollar value per year of goods that will be purchased from non-Virginia companies within the locality	\$41,534,263
	(c) Estimated dollar value per year of services that will be purchased from Virginia companies within the locality	Included above
	(d) Estimated dollar value per year of services that will be purchased from non-Virginia companies within the locality	Included above
7.	Estimated number of regular employees on year round basis.	330 <sup>1</sup>
8.	Average annual salary per employee.	\$80,000 <sup>1</sup>

  
 \_\_\_\_\_  
 Chairman  
 Fairfax County Economic Development Authority

<sup>1</sup> Based on the entire National Wildlife Federation organization.

Board Agenda Item  
July 10, 2018

ACTION - 12

Adoption of the Fairfax County Operational Energy Strategy

ISSUE:

Board adoption of the Fairfax County Operational Energy Strategy.

RECOMMENDATION:

The County Executive recommends that the Board adopt the Fairfax County Operational Energy Strategy, which is provided as Attachment 1.

TIMING:

Board action is requested on July 10, 2018 as requested by the Board of Supervisors Environmental Committee at its June 12, 2018 meeting.

BACKGROUND:

In 2014, the county established a cross-organizational energy strategy team for the purpose of developing an internal operational energy strategy. Team members realized that this strategy would be essential to establishing priorities and setting the direction for the county's departments and agencies.

The energy strategy team members spent over a year brainstorming the strategy, considering different approaches, and debating goals, actions, and priorities. Work on the strategy was then delayed as key team members focused on the Environmental Vision update, subsequently adopted by the board in June 2017.

In early 2017, a core team began distilling the energy strategy team's work with the objective of drafting a high-level energy strategy for county operations that would be readable and easy to understand and follow. This work received added impetus in June 2017 when the board, during the meeting at which it adopted its updated Environmental Vision, directed the county's Environmental Coordinator to develop an energy strategy for internal county operations with goals and targets supporting the updated Vision's new Climate and Energy section.

Over the next several months, a draft Strategy was circulated among key county operations personnel. County departments and agencies that provided comments,

Board Agenda Item  
July 10, 2018

suggestions and proposed revisions included the Capital Facilities, Solid Waste and Wastewater divisions of the Department of Public Works and Environmental Services, Facilities Management Department, Department of Procurement and Material Management, Department of Vehicle Services, Fairfax County Department of Transportation, Department of Information and Technology, and the Fairfax County Park Authority.

In addition, the core team, including the Environmental Coordinator, met individually with representatives of these departments and agencies to ensure the viability of goals, targets and actions proposed in the draft Strategy. Following these meetings, a revised version incorporating relevant feedback was distributed to the departments and agencies for final sign-off.

In November 2017, a final version of the draft Operational Energy Strategy was presented to the county's then-Acting County Executive and Chief Financial Officer. This version of the draft Strategy was presented to the County Executive in January 2018.

On February 13, 2018, the draft Operational Energy Strategy was presented to the Board of Supervisors Environmental Committee, prior to release for targeted public comment and formal consideration by the Environmental Quality Advisory Council. A revised version was subsequently presented to both the County Executive and Chief Financial Officer in May 2018.

The Environmental Coordinator presented the final draft of the Operational Energy Strategy at a regularly scheduled meeting of the Board's Environmental Committee on June 12, 2018. At the conclusion of the presentation, the Board's committee endorsed the Strategy and directed staff to bring forward an Action Item to adopt the Strategy at the July 10, 2018 Board Meeting, with the understanding that committee members would be able to provide the County Executive with specific language that could be included in the Strategy and be considered as guidance on its implementation. The guidance that staff received was reviewed by the County Executive and what the county is able to accomplish as part of the Operational Energy Strategy was incorporated in the revised version of the Operational Energy Strategy provided as Attachment 1.

Board Agenda Item  
July 10, 2018

Operational Energy Strategy Targets

<b>Focus Area</b>	<b>Target</b>	<b>Initial Cost</b>
Energy Use and Efficiency	20% reduction by 2029	\$4.5 Mil/year for 10 years
Innovative Energy Solutions	Pilot large scale onsite solar	\$1.25 Mil one time capital cost
Electric Vehicles	EV charging stations at 20 Major County facilities and 5% EV passenger vehicles	\$1.0 Mil over 5 years and \$182 K over 5 years

FISCAL IMPACT:

Funding will need to be appropriated through the annual budget process as well as quarterly reviews for the targets shown in the Operational Energy Strategy. Further information is available in the Background section under Operational Energy Strategy Targets.

ENCLOSED DOCUMENTS:

Attachment 1 – Fairfax County Operational Energy Strategy

STAFF:

Kambiz Agazi, Environmental and Energy Coordinator  
Susan Hafeli, Chief, Utility Branch, Department of Cable and Consumer Services

# Fairfax County Operational Energy Strategy



July 10, 2018





**FAIRFAX COUNTY BOARD OF SUPERVISORS**

- Sharon Bulova, Chairman.....At-Large
- Penelope A. Gross, Vice-Chairman..... Mason District
- John C. Cook..... Braddock District
- John W. Foust..... Dranesville District
- Catherine M. Hudgins..... Hunter Mill District
- Jeffrey C. McKay..... Lee District
- Daniel G. Storek..... Mount Vernon District
- Linda Q. Smyth..... Providence District
- Pat Herrity..... Springfield District
- Kathy L. Smith..... Sully District



(From left to right: Daniel Storek, John Cook, Cathy Hudgins, Jeff McKay, Sharon Bulova, Penny Gross, John Foust, Kathy Smith, Linda Smyth, Pat Herrity)

**FAIRFAX COUNTY OPERATIONAL ENERGY STRATEGY**

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## Preface

Good governance requires elected bodies to provide effective services, efficient operations, transparency, accountability, equity, and competitiveness. The Operational Energy Strategy (Energy Strategy) provides guidance to Fairfax County agencies on the delivery of efficient, sustainable, and affordable operations. The Energy Strategy is a call to action for County agencies to become more energy conscious and find ways to reduce their energy consumption.

The intended purpose of this Energy Strategy is to ensure energy and resource efficiency are explicitly considered, examined, and executed throughout all County government operations and decision-making. The efficient and conscientious use of energy by local jurisdictions is essential to modeling good governance and a prudent use of taxpayer dollars. As we move into an ever more energy conscious 21st century, Fairfax County must become more energy efficient in order to sustain its appeal as a nationally recognized business location. As such, Fairfax County government has a responsibility to be a leader in workplace energy efficiency.

The Energy Strategy promotes cost-effective, energy-efficient, innovative technologies, and an energy conscious culture that encourages strategic decisions with regard to energy consumption. The reduction in energy use will help mitigate escalating energy costs and promote a “greener” future for the County.

Energy efficiency, conservation, renewable innovation, and education are key elements of the Energy Strategy because of their potential to reduce overall energy demand, costs, and consumption. The Energy Strategy also plays an important role in addressing climate change by lowering overall greenhouse gas emissions. Reducing energy consumption is often the most economical strategy to advance climate protection efforts and provides an environmentally safe alternative to increased energy production and consumption.

The Energy Strategy advances goals in the Economic Success Strategic Plan by investing in sustainable and cost saving infrastructure, modeling good governance, supporting effective and efficient services, and increasing internal innovation and government agility. The Energy Strategy is not a static document and may be modified in the future to reflect emerging “best practice” energy efficiency, conservation, and energy management strategies and initiatives.

Employing this strategy among county employees, managers, agencies, and government leadership will be required to effect lasting solutions to the energy challenges we face. While we have made great strides, we can and must do more. The board and I trust that all county staff will take up the challenge to support the county’s Operational Energy Strategy.

Fairfax County Board of Supervisors  
Sharon Bulova, Chairman

## Introduction

In adopting its updated [Environmental Vision](#) (June 20, 2017), the Board of Supervisors (Board) approved objectives in the areas of energy efficiency, conservation and renewable energy intended to reduce both the county's operational use of energy from fossil fuel sources and the greenhouse gas (GHG) emissions associated with that energy use. These objectives include: (1) ensuring that cost-effective energy efficiency is an integral part of county operations, capital improvement and capital renovation projects; (2) seeking opportunities to incorporate cost-effective renewable energy generation at county facilities; (3) considering life-cycle energy costs when making procurement decisions; and (4) educating employees on the importance of energy efficiency and conservation.<sup>1</sup>

This Fairfax County Operational Energy Strategy is intended to further the board's objectives by providing goals, targets, and actions in each of the following 10 focus areas:

Energy Use and Efficiency	Goods and Services
Water Use and Efficiency	Waste Management
Green Building and Sustainability	Awareness and Engagement
Innovative Energy Solutions	Utility Cost Management
Electric Vehicles	Reporting and Collaboration

No focus area is the responsibility of one department or agency alone. Fairfax County Government leadership, management, and employees will need to work together to successfully implement this ambitious energy strategy. Detailed action plans and increased inter-agency coordination and cooperation will be crucial. In some cases, leadership and management may need to expressly empower staff to act in furtherance of the goals, targets, and actions in this Strategy. Periodic reviews and updates will help ensure it remains vital despite expected advances in technology and legislative and regulatory change.

Achieving the Strategy's goals and targets requires financial commitments from the board, departments, and agencies. Initial capital outlays, adequate staffing and resources, and dedicated funding are essential both to undertake the energy and cost-saving actions in this Strategy and to realize their benefits. Investing in efficiency improvements and other actions to reduce energy and water consumption will generate returns for decades, well beyond initial payback periods.

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<sup>1</sup> The cost-effectiveness of energy efficiency and renewable energy should not be confused with "value engineering," which is embedded in county policy regarding capital improvement and/or renewal projects that exceed a specified cost threshold. Cost-effectiveness should consider direct electricity cost avoidance due to efficiency as well as other tangible or quantifiable benefits, including reduced maintenance costs associated with equipment specifications, regulated emissions avoidance and the value of stable energy prices.

## Background

### I. The Board is Committed to Environmental Stewardship

Fairfax County, which is home to over 1.1 million residents, is governed by an elected 10-member Board of Supervisors (board). Through its [Statement of Priorities](#), the board has pledged to engage residents and business and to protect investment in eight critical areas, including “a clean, sustainable environment:”

*Fairfax County will continue to protect our drinking water, air quality, stream valleys and tree canopy through responsible environmental regulations and practices. We will continue to take a lead in initiatives to address energy efficiency and sustainability and to preserve and protect open space for our residents to enjoy.*

Fairfax County has long recognized the need for proactive policies and initiatives to address its environmental goals and challenges. Indeed, environmental considerations, including those relating to the efficient and prudent use of energy resources, are embedded in the county's policy documents and initiatives.

In 2004, the board endorsed and adopted its “Environmental Excellence for Fairfax County: A 20-year Vision,” also known as the Environmental Agenda. The Environmental Agenda, as adopted in 2004 and revised in 2007, was organized into six core services: (1) Growth and Land Use; (2) Air Quality and Transportation; (3) Water Quality; (4) Solid Waste; (5) Parks, Trails, Open Space; and (6) Environmental Stewardship. The Environmental Agenda describes environmental stewardship as both a key responsibility and a critical legacy of any elected public body.

Subsequently, in collaboration with local, regional, and national partners, Fairfax County led a national effort, called Cool Counties, to reduce global warming emissions. The Board of Supervisors signed the [Cool Counties Climate Stabilization Declaration](#) on July 16, 2007. In signing this pledge, the board committed to certain actions, including working closely with local, state, and federal governments to create a regional greenhouse gas (GHG) emissions inventory and to limit regional emissions by 2050. At the local level, the Board of Supervisors committed in paragraph (i) of the Declaration to implement “policies, programs and operations to achieve [a] significant, measurable and sustainable reduction” of its own operational GHG emissions to help contribute to the regional reduction targets. As a result of these efforts, Fairfax County cut its per capita GHG emissions between 2005 and 2012 by 10 percent, as did the metropolitan Washington, D.C. region.

In 2008, the board adopted its [Sustainable Development Policy for Capital Projects](#), sometimes referred to as the county's “green building” policy. This policy applies to the design and construction of new county buildings and renovations or additions to existing ones. Under this policy, county buildings of more than 10,000 square feet in size must have a goal of meeting or exceeding silver certification in the Leadership in Energy and Environmental Design, or LEED®, rating system; smaller facilities are recommended for LEED certification. (Green building policies for private sector development are found in the county's Comprehensive Plan and are implemented through the zoning process.)

In 2009, the board adopted an [Energy Policy](#) to promote pragmatic conservation and management of energy resources. The Energy Policy supports nine measures, including:

- Energy efficiency and conservation in buildings, facilities, operations, and vehicles.
- The use of alternative and sustainable energy options.
- Waste reduction and recycling.
- The use of more fuel efficient and alternate fuel vehicles in the county's fleet.
- Implementation of energy efficiency and conservation projects.
- Generation of energy on-site.
- Energy efficiency and conservation efforts by county employees, employers and residents.

These measures, which are incorporated in this Operational Energy Strategy, were intended to advance essential elements of the Environmental Agenda, including the efficient and prudent use of energy resources, the promotion of energy conservation, and support for alternative energy sources.

On October 6, 2015, the Board of Supervisors directed county staff to review the 2004 Environmental Agenda with community and board involvement to determine whether the document needed to be updated. Following extensive public and internal comment, staff drafted an updated document that the board adopted on June 20, 2017. Major changes included the addition of a new section addressing Climate and Energy, refinements to the scope of the initial six core services, and the addition of environmental vision statements and supporting objectives. The updated document, now referred to as the [Environmental Vision](#), is still premised on the same two principles originally adopted by the board in 2004. First, that *"conservation of our limited natural resources must be interwoven into all government decisions."* And, second, that *"the Board must be committed to providing the necessary funds and resources to protect and improve our environment for better quality of life now and for future generations."*

This Operational Energy Strategy promotes the stewardship goals set forth in the board's environmental policies and initiatives, particularly the commitment to local action as stated in Paragraph (i) of the Cool Counties Climate Stabilization Declaration, the goals of the county's Energy Policy, and the objectives of the 2017 Environmental Vision. Indeed, the Strategy incorporates many of the supporting objectives of the 2017 Environmental Vision's new Climate and Energy section, thereby ensuring close alignment. These objectives include:

- Ensuring that cost-effective energy efficiency is an integral part of county operations, capital improvement, and capital renovation projects;
- Seeking opportunities to incorporate cost-effective renewable energy generation at county facilities;
- Considering life-cycle energy costs when making procurement decisions;
- Educating employees on the importance of energy efficiency and conservation; and
- Advocating for new laws that support countywide implementation of energy efficiency and renewable energy.

## **II. The Operational Energy Strategy is the Product of an Extensive Cross-Organizational Effort**

In 2014, the county's inter-agency Energy Efficiency and Conservation Coordinating Committee (EECCC) established a cross-organizational energy strategy team for the purpose of developing an internal operational energy strategy. Team members realized that this strategy would be essential to establishing priorities and setting the direction for the county's departments and agencies.

The energy strategy team members spent over a year brainstorming the strategy, considering different approaches, and debating goals, actions, and priorities. Work on the strategy was then delayed as key team members focused on the Environmental Vision update, subsequently adopted by the board in June 2017.

In early 2017, a core team began distilling the energy strategy team's work with the objective of drafting a high-level energy strategy for county operations that would be readable and easy to understand and follow. The core team sought to avoid creating a document that was so dense or complicated that it would simply sit on a shelf. This work received added impetus in June 2017 when the board, during the meeting at which it adopted its updated Environmental Vision, directed the county's Environmental Coordinator to develop an energy strategy for internal county operations consistent with the updated Vision's new Climate and Energy section.

Over the next several months, a draft Strategy was circulated among key county operations personnel. County departments and agencies that provided comments, suggestions and proposed revisions included the Capital Facilities, Solid Waste and Wastewater divisions of the Department of Public Works and Environmental Services, Facilities Management Department, Department of Procurement and Material Management, Department of Vehicle Services, Fairfax County Department of Transportation, Department of Information and Technology, and the Fairfax County Park Authority. In addition, the core team, including the Environmental Coordinator, met individually with representatives of these departments and agencies to ensure the viability of goals, targets and actions proposed in the draft Strategy. Following these meetings, a revised version incorporating relevant feedback was distributed to the departments and agencies for final sign-off.

In November 2017, a final version of the draft Operational Energy Strategy was presented to the county's then-Acting County Executive and Chief Financial Officer. This version of the draft Strategy was presented to the County Executive in January 2018. A revised version was subsequently presented to both the County Executive and Chief Financial Officer in May 2018.

On February 13, 2018, the draft Operational Energy Strategy was presented to the Board of Supervisors Environmental Committee, prior to release for targeted public comment and formal consideration by the Environmental Quality Advisory Council. A committee decision regarding the document was scheduled for June 2018 to provide adequate time for public input and revision, if necessary.



### III. Reducing Energy Use Demonstrates Both Environmental and Fiscal Stewardship

Both the 2007 Cool Counties Climate Stabilization Declaration and the [Region Forward Vision](#) adopted in 2010 by the Metropolitan Washington Council of Governments, of which Fairfax County is a member, envision an 80 percent reduction in regional greenhouse gas (GHG) emissions by 2050. Reaching this target will require a sustained, multi-pronged effort to reduce fossil fuel use, thereby reducing the carbon dioxide (CO<sub>2</sub>) emissions recognized to drive global warming. This effort must include actions such as emphasizing energy efficiency and conservation, increasing reliance on renewable energy and alternative technologies, and behavior change. Fortunately, actions that reduce fossil fuel use not only avoid CO<sub>2</sub> emissions, they tend to lower utility bills, as well, thus providing both environmental and fiscal benefits.

In 2016, electricity use accounted for 51 percent of the county's energy use but 65 percent of its CO<sub>2</sub> emissions and 69 percent of its energy costs. Natural gas, meanwhile, accounted for 24 percent of the county's energy use, but only 14 percent of its CO<sub>2</sub> emissions and 11 percent of its energy costs.

<b><i>Fairfax County 2016 Energy Data</i></b>			
<b>Fuel Type</b>	<b>Percent of Energy Usage</b>	<b>Percent of CO<sub>2</sub> Emissions</b>	<b>Percent of Energy Cost</b>
Electricity	51%	65%	69%
Natural Gas	24%	14%	11%
Gasoline	14%	12%	12%
Diesel	11%	9%	8%

More information regarding the county's energy consumption, costs and related emissions is provided in Appendix 2.

Staff involved in developing this Operational Energy Strategy agreed that the county's energy data indicates that actions that reduce electricity use are likely to reap the largest gains in terms of reducing overall energy use and CO<sub>2</sub> emissions and avoiding cost. As a result, many – but not all – of the goals, targets and actions in the Strategy are focused on reducing electricity use.



## Strategy Overview

The Operational Energy Strategy is intended to clearly communicate county objectives regarding energy use and to provide guidance for achieving them, subject to support including adequate staffing and resources and dedicated funding. Further, the Strategy is intended to be a living document. While its goals, targets and actions reflect current conditions, periodic review and update will help ensure that these elements of the Strategy remain meaningful.

The Strategy consists of 10 **focus areas**, each with its own goal, target and sample actions. These focus areas, listed below and discussed separately in the following sections, tie the Strategy to the 2017 Environmental Vision by reflecting Climate and Energy objectives regarding energy efficiency, conservation, and renewable energy.

Energy Use and Efficiency	Goods and Services
Water Use and Efficiency	Waste Management
Green Building and Sustainability	Awareness and Engagement
Innovative Energy Solutions	Utility Cost Management
Electric Vehicles	Reporting and Collaboration

As noted in the Introduction, no focus area is the responsibility of any one department or agency alone. Fairfax County Government leadership, management, and employees will need to work collaboratively to successfully implement this Strategy.

The **goal** for each focus area is a long-term objective that, as a general rule, reflects some or all of various board policies or initiatives.

The **target** for each focus area is intended to provide specific direction. The target was derived through a multi-step process including review of existing and planned department actions and goals, consultation and discussion with key operations personnel, and research into other jurisdictions' goals and targets. Targets should be periodically reviewed and updated to ensure they remain vital despite expected advances in technology and legislative and regulatory change.

The **actions** in each focus area are intended to help achieve the target and goal of a specific focus area. Listed actions are a set of possible opportunities directed towards operations personnel that can reduce fossil fuel use and avoid CO2 emissions.

## Focus Area: Energy Use and Efficiency



This focus area encourages the reduction in or avoidance of energy use by practices including energy conservation and energy efficiency. As defined by the federal Energy Information Administration, “energy conservation” is any behavior that results in the use of less energy, while “energy efficiency” is using technology that requires less energy to perform the same function.

Turning off lights when leaving a room is a common example of energy conservation, while replacing incandescent or fluorescent lighting with LED lighting is a common example of energy efficiency. The benefits of reducing or avoiding energy use in county operations include lower utility or fuel bills, reductions in emissions and pollutants attributable to the county’s energy use and, in many cases, enhanced comfort for building visitors and occupants.

**Goal:**

Reduce electricity and natural gas use in existing county facilities and operations.

**Target:**

Reduce kBtu per square foot by 20% from 2019 to 2029, equivalent to a reduction of about 2% per year over the 10-year period.

**Actions:**

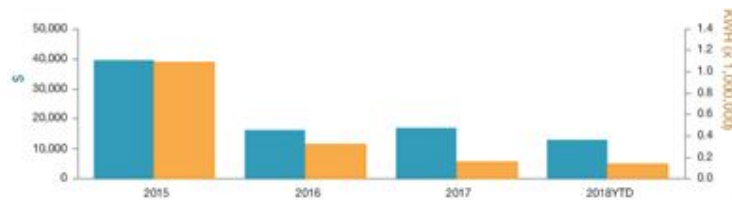
1. Monitor and analyze energy use and facility performance.
  - Use EnergyCap or similar energy software to track, report and analyze energy data.
  - Review utility bills and other available data to identify areas of opportunity.
2. Routinely audit and assess existing building stock for energy efficiency opportunities.
  - Incorporate natural landscaping to maximize shading and minimize irrigation where appropriate.
3. Engage in practices to optimize facility and equipment performance.
  - Utilize a systematic preventative maintenance system to maintain energy efficiency in existing equipment.
  - Implement a commissioning program for ongoing performance improvements.
4. Identify and implement cost-effective energy efficiency projects.
  - Exceed Virginia code requirements when replacing equipment and fixtures.
5. Install energy management systems and automation controls and ensure appropriate programming and maintenance
6. Include a facility’s energy efficiency and costs as considerations in leasing decisions.
7. Routinely evaluate new technologies that can reduce energy use.
8. Ensure appropriate training for staff.

## Focus Area: Water Use and Efficiency

This focus area encourages the implementation of conservation and efficiency measures to reduce or avoid water use in county operations, thereby achieving both energy savings and environmental

benefits. Direct benefits of using water resources more efficiently include reductions in the county's water and sewer bills and the conservation of valuable treated drinking water. Indirect benefits include a reduction in the region's electricity use, as it requires an estimated 2,300 kilowatt hours of electricity to pump, treat, transmit, and distribute one million gallons of potable water.

*Results of Government Center Restroom Renovation (2016)*



### Goal:

Reduce water use in existing county facilities and operations.

### Target:

Reduce water usage 20% for all new construction or major renovations.

### Actions:

1. Monitor and analyze water use and equipment performance.
  - Use EnergyCap or similar energy software to track, report and analyze water data.
  - Review utility bills and other available data to identify areas of opportunity.
2. Routinely audit and assess existing building stock for water efficiency opportunities.
  - Incorporate natural landscaping to minimize irrigation and maximize shading where appropriate.
3. Engage in commissioning, preventative maintenance, and other practices to optimize cooling tower and other equipment performance.
4. Identify and implement cost-effective water efficiency projects, including water-conserving fixtures and systems.
  - Exceed Virginia code requirements when replacing equipment and fixtures.
5. Expand use of control systems to maximize water efficiency and ensure appropriate programming and maintenance.
  - Install leak detection sensors in facilities at higher risk of water loss or damage.
  - Install web-based irrigation control systems.
6. Routinely evaluate new technologies that can reduce water consumption.
7. Ensure appropriate training for staff.

## Focus Area: Green Buildings

*Stringfellow Road Park-and-Ride (LEED Silver Certified)*



In the United States, buildings account for almost 40 percent of national CO<sub>2</sub> emissions and out-consume both the industrial and transportation sectors. However, according to a 2016 report by the non-profit U.S. Green Building Council (USGBC), which developed the LEED® rating system, LEED-certified buildings have 34% lower

CO<sub>2</sub> emissions and consume 25% less energy and 11% less water.<sup>1</sup> This focus area seeks to ensure that the performance of county facilities achieves or exceeds these USGBC-reported results.

### **Goal:**

Ensure that new construction and major renovations of county facilities are energy- and water-efficient.

### **Target:**

Achieve LEED Silver on all new facility construction, additions and renovations with an occupied area greater than 10,000 square feet.

### **Actions:**

1. Coordinate among agencies to ensure that a facility's lifetime energy and water use are minimized by design, including incorporation of cost-effective systems, fixtures, and equipment that use resources efficiently.
  - Incorporate highly-efficient mechanical and lighting systems.
  - Incorporate highly-efficient water systems and fixtures.
  - Incorporate building automation and controls.
  - Design the building envelope for energy efficiency.
  - Integrate water recycling or reuse where possible to reduce water use for non-potable needs.
  - Incorporate natural landscaping to minimize irrigation needs and maximize shading.
2. Attain high-efficiency building certifications.
  - Design for LEED Gold, where appropriate.
  - Where appropriate, pursue the Designed to Earn ENERGY STAR® certification.

<sup>1</sup> See <https://www.usgbc.org/articles/green-building-facts>, citing a 2011 U.S. Department of Energy report, *Re-Assessing Green Building Performance: A Post Occupancy Evaluation of 22 Buildings*, available at [http://www.pnl.gov/main/publications/external/technical\\_reports/PNNL-19369.pdf](http://www.pnl.gov/main/publications/external/technical_reports/PNNL-19369.pdf).

3. Exceed Virginia code requirements.
  - Use design concepts that exceed Virginia code requirements and conform with industry best practices for energy and water efficiency.
  - Use building materials and components that exceed Virginia code requirements for energy and water efficiency.
4. Explore the feasibility of incorporating renewable energy systems.
5. Deploy infrastructure needed to support alternative-fueled vehicles, including electric vehicles (EVs).
  - Encourage provision of or readiness for charging stations and related infrastructure for EVs.
  - Explore the feasibility of providing EV charging stations for public use.

## Focus Area: Innovative Energy Solutions



*Fairfax County Water Reuse Facilities*

This focus area affirms the county's commitment to of developing and applying innovative approaches to achieve environmental and energy objectives. Examples include the county's waste-to-energy operations, its landfill gas recovery and re-use initiative, and its use of reclaimed non-potable water for irrigation and other uses. These types of initiatives yield energy or water savings, are associated with reduced emissions, and have other benefits. Their success reflects a willingness both to look for opportunity and benefit in what others might see as problems, and to consider and incorporate appropriate technologies in developing solutions.

**Goal:**

Reduce fossil fuel consumption through the application of innovative concepts and technologies.

**Target:**

Implement a rooftop solar pilot project at the Springfield Warehouse capable of generating electricity equivalent to the warehouse's expected annual electricity consumption.

**Actions:**

1. Explore opportunities to recover waste heat and energy from county facilities and processes.
2. Explore the feasibility of installing renewable energy systems at county facilities.
3. Research emerging uses for county waste and wastewater, including organic waste.
4. Consider the feasibility of low/net-zero approaches for new county facilities.
5. Participate in joint initiatives with public- and/or private-sector partners that encourage energy-related innovation.
  - Develop demonstration projects that can be viewed by the public and presented to the Board.
6. Encourage staff interest in technological developments that save energy and reduce greenhouse gas emissions.

## Focus Area: Electric Vehicles



This focus area supports the continued transition from gasoline-powered passenger vehicles used in the performance of county responsibilities to hybrid-electric and electric vehicles (EVs). This transition has been underway for several years in response to the county's interest in cleaner and more energy-efficient vehicles. In FY2018, the county fleet included 118 hybrid-electric passenger vehicles.

**Goal:**

Minimize energy used in the transportation of county staff and goods and the delivery of services.

**Target:**

By 2025, ensure that Level 2 charging infrastructure is installed at up to 20 major government facilities and that by 2030 5% of government passenger vehicle purchases are electric or plug-in hybrid.

**Actions:**

1. Reduce reliance on petroleum-based fuels by acquiring highly-efficient and alternative-fueled vehicles.
2. Deploy infrastructure needed to support alternative-fueled vehicles, including electric vehicles.
3. Where feasible, implement scheduling and routing practices that reduce vehicle travel time.
4. Implement video conferencing solutions that reduce the need for vehicle travel.

### Focus Area: Goods and Services

Fairfax County spends over \$700 million annually on goods and services. The county's Environmentally Preferable Purchasing Policy (EPP Policy), an internal procedural memorandum adopted in 2009, encourages county departments to consider the environmental impacts of the goods and services they purchase without compromising on quality or cost. Such purchases are intended to help conserve natural resources, reduce waste, protect public health and the environment, and promote the use of clean technologies, recycled materials, and less toxic products. This focus area re-affirms the county's commitment to environmentally preferable procurement.

**Goal:**

Encourage and increase the purchase of environmentally preferable products and services. Consider environmental impact when disposing of property.

**Target:**

By 2020, require that all major appliances, such as refrigerators and televisions, are ENERGY STAR-certified or equivalent, unless it can be shown that an energy-efficient option is not available. Continue to require that all electronic office equipment, such as computers, monitors and multifunction devices, purchased be ENERGY STAR-certified or equivalent, unless it can be shown that an energy-efficient option is not available.

**Actions:**

1. Purchase and use products and services that reduce negative environmental effects on employees, the community, and the environment.
2. Require contractors to use environmentally preferable products and practices in performing services for Fairfax County Government, where practical.
3. Purchase products that include recycled content or are made of materials that can be recycled, are durable, conserve energy and resources and have the fewest toxic compounds.
4. Purchase from suppliers that reuse, take back and/or recycle the product purchased.
5. Use best value principles in purchasing decisions by balancing required product performance, price, and the environmental benefit of the product.
6. Establish a funding mechanism to offset cost premiums associated with energy- or water-efficient products and products with recycled content.
7. Create a process by which new contracts and small purchases must be evaluated against criteria established for Environmentally Preferable Goods and Services.



### Focus Area: Waste Management

In addition to offering environmentally-responsible waste recycling and disposal options to residents, Fairfax County strives to be environmentally responsible in its own waste management operations. This focus area recognizes that the three “R’s of recycling – “reduce, re-use, and recover” – can save money, energy and natural resources, and encourages efforts across county operations to reduce, re-use and recover resources as alternatives to disposal.



*Glass Crusher at I-66 Transfer Station*

**Goal:**

Optimize resource conservation through recovery and reuse.

**Target:**

Build on the county’s 2016 recycling rate of 50% by diverting at least 3% more waste by 2030.

**Actions:**

1. Develop and implement a recycling program for construction/demolition debris (CDD), including public outreach and education to promote CDD source reduction and reuse.
2. Expand county composting operations to address organic waste.
3. Capture gas generated by closed landfills.
  - Convert captured landfill gas into natural gas and electricity for county use or sale.
  - Use captured landfill gas for incineration and other processes.
4. Reclaim treated wastewater and sewage sludge.
  - Use reclaimed wastewater for process cooling and irrigation
  - Use sewage sludge for fertilizer application.
5. Generate energy from waste.
  - Support waste-to-energy initiatives.
  - Support energy production using bio-solids combustion.
6. Use renewable energy in support of waste process applications.
7. Promote and expand “reduce, reuse, recycle” initiatives that encourage source reduction and recycling by county employees.

## Focus Area: Awareness and Engagement



Visitors at FEEE's 2018 Green Lounge

Fairfax Employees for Environmental Excellence (FEEE) serves as Fairfax County's employee green team. FEEE strives to foster a greener workplace culture by encouraging employees to participate in existing environmental programs, including recycling, green purchasing, and the reuse of surplus county property, and to identify new opportunities for minimizing the county's environmental impact. This focus area supports the efforts of county departments and agencies, either in conjunction with FEEE or on their own, to inspire and empower employees to exercise environmental responsibility, particularly with respect to energy use.

**Goal:**

Foster a culture of efficiency and conservation in the county workplace.

**Target:**

FEEE will hold at least four employee events per year.

**Actions:**

1. Publicize efficiency and conservation actions in the workplace.
  - Provide content on a regular basis to communications channels like *NewsLink*, Fairfax County Energy News, department newsletters, and the FEEE blog.
2. Conduct regular training to enhance employee awareness and to encourage action.
  - Educate staff responsible for purchasing decisions on the benefits of energy- and water-efficient goods and services.
  - Sponsor lunch-and-learns on a range of efficiency and conservation topics.
3. Establish reward and recognition programs to motivate behavior change.
4. Designate champions within departments or facilities who will foster communication and encourage efficiency and conservation.
5. Increase employee awareness of opportunities for source reduction, reuse and recycling
  - Encourage zero-waste events at county facilities.
6. Publicize county policies and procedural memoranda that pertain to energy or water use in the work environment.

### Focus Area: Utility Cost Management

This focus area is unique among the 10 areas in that it relates solely to reducing energy costs. Electricity costs in particular can reflect choices made over time, from pre-occupancy load estimates that determine the size of electrical facilities installed by the utility, to the specific rate schedule selected for day-to-day power needs. This focus area encourages thoughtful consideration of possible actions and choices that can affect electricity and other utility costs.

**Goal:**

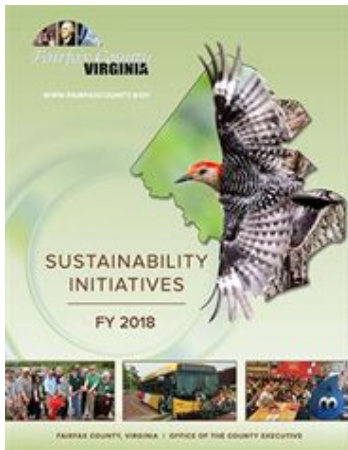
Manage electric and other utility service and load to achieve cost savings.

**Target:**

Quarterly review of utility cost management best practices by the Energy Core team.

**Actions:**

1. Coordinate among agencies to ensure that utility electrical facilities are appropriately sized.
  - Agencies should coordinate on the preparation of utility load letters and letter supplements to ensure that the electrical facilities that will be used to provide service are appropriately sized.
2. Coordinate among agencies to ensure appropriate metering and rate-schedule selections.
  - Agencies should coordinate on metering issues including functionality, type, number and opportunities for sub-metering.
3. For accounts with demand charges, implement programs to minimize peak charges.
  - Manage electricity use to minimize peak demand charges and reset billing ratchets, where possible.
  - Use the facility's demand profile to help develop a strategy for reducing peak use.
4. Periodically review utility bills for possible cost savings.
  - Use rate comparisons, bill audits and other tools such as EnergyCap to evaluate the cost of service under alternate rate schedules.
  - Renegotiate contract demand and/or contract dollar minimum with the electric utility in the event of a permanent load reduction.
  - Consider interruptible natural gas service where appropriate.
5. Install meters for sewer credit on cooling towers and irrigation systems if appropriate.



### Focus Area: Reporting and Collaboration

Consistent with the county's interests in accountability and transparency, this focus area ensures that the Board and public will remain informed about operational energy efforts as well as progress in achieving county objectives, including the objectives of the Climate and Energy section of the 2017 Environmental Vision. The inclusion of collaborative efforts emphasizes that achieving these objectives is not the responsibility of one department or agency alone; instead, county government leadership, management, and employees will need to work together to successfully implement this Strategy.

**Goal:**

Communicate the county's progress to the community and wider audiences.

**Target:**

Progress in achieving the targets and goals of the Operational Energy Strategy will be reported annually by the Environmental and Energy Coordinator in the *Sustainability Initiatives* publication and in a presentation to the Board of Supervisors Environmental Committee.

**Actions:**

1. Periodically update the Board and public on progress made in implementing the Energy Strategy for county operations with the parameters of that reporting to be guided by the Board's Environmental Committee.
2. Maintain and update county webpages highlighting accomplishments in energy efficiency and conservation.
3. Work with agency staff to develop energy plans tailored to specific activities or functions.
4. Continue to seek opportunities to collaborate regionally on energy and water challenges and to promote resulting achievements.
  - Participate in regional task forces and workshops.
5. Participate in educational conferences and other public events.

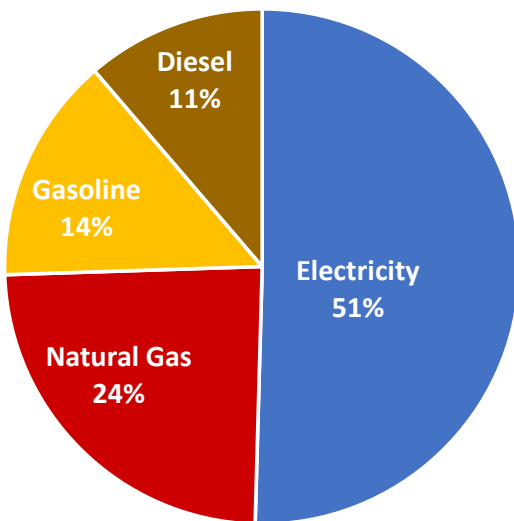
## APPENDIX 1: ABBREVIATIONS AND ACRONYMS

Board:	The Fairfax County, Virginia, Board of Supervisors.
Btu or BTU:	British Thermal Unit, a traditional unit of heat defined as the amount of heat required to raise the temperature of one pound of water by one degree Fahrenheit.
CO <sub>2</sub> e:	“Carbon dioxide equivalent,” or CO <sub>2</sub> e, is a term for describing different greenhouse gases in a common unit. For any quantity and type of greenhouse gas, CO <sub>2</sub> e signifies the amount of carbon dioxide (CO <sub>2</sub> ) that would have the equivalent global warming impact.
EECCC:	Fairfax County’s inter-agency Energy Efficiency and Conservation Coordinating Committee.
GHG:	Greenhouse gas, which absorbs and emits radiant energy within the thermal infrared range.
kWh:	Kilowatt hour, which is a composite unit of energy equivalent to one kilowatt of power sustained for one hour.
LED:	Light-emitting diode, a lighting technology.
LEED®:	Leadership in Energy and Environmental Design, a green building certification program developed by the non-profit U.S. Green Building Council.
M:	Million
MT:	Metric Tons
USGBC:	U.S. Green Building Council, a non-profit entity.

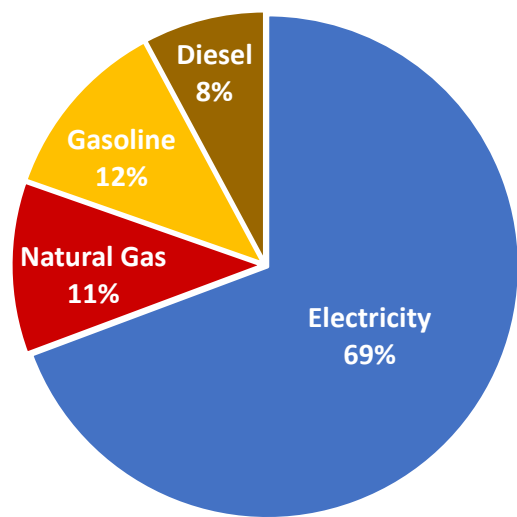
## APPENDIX 2: FAIRFAX COUNTY 2016 ENERGY DATA

	Quantity	Unit	kBtu	Cost	lbs CO <sub>2</sub>
Electricity	261,720,286	kWh	892,989,617	\$ 19,890,742	224,185,148
Natural Gas	4,258,482	Therms	425,848,198	\$ 3,172,569	49,824,239
Gasoline	2,091,523	Gallons	251,978,313	\$ 3,383,222	40,993,849
Diesel	1,452,299	Gallons	199,621,347	\$ 2,251,894	32,531,489

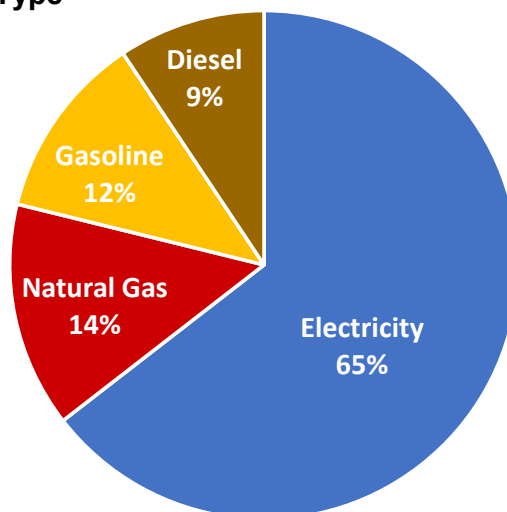
**2016 Energy Use (kBtu) by Fuel Type**



**2016 Energy Cost (\$) By Fuel Type**



**2016 CO<sub>2</sub> (lbs) by Fuel Type**



### APPENDIX 3: ESTIMATED ENERGY SAVINGS AND COST AVOIDANCE

Table 3.1

FOCUS AREA: ENERGY USE AND EFFICIENCY						
Target Range	Annual Cost	Annual Energy Savings	Annual Utility Cost Avoidance	Simple ROI	Lifetime Utility Cost Avoidance	Equivalent Emissions Reduction (CO <sub>2</sub> e) Lifetime
Reduce Energy Use 10% by 2029	\$2.24M for 10 years	132M kBtu	\$3.67M	5-7 years	\$41.16M over 10 years	249,476 MT
Reduce Energy Use 20% by 2029	\$4.49M for 10 years	264M kBtu	\$7.35M	5-7 years	\$82.31M over 10 years	501,673 MT

**Assumptions and Notes:**

- Data is based on standard LED lighting retrofits, which have a useful life of about 10 years.
- 2.5% escalation in electric rate was used to calculate lifetime cost avoidance.

Table 3.2

FOCUS AREA: GREEN BUILDINGS						
Target Range	Initial Cost	Annual Energy Savings	Annual Utility Cost Avoidance	Simple ROI	Lifetime Cost Avoidance	Equivalent Emissions Reduction (CO <sub>2</sub> e) Lifetime
LEED V4 Silver	\$0.31M	3.56M kBtu	\$56,000	5.5 years	\$2.48M over 30 years	16,002 MT
LEED V4 Gold	\$1.39M	5.91M kBtu	\$110,000	12.5 years	\$4.96M over 30 years	30,336 MT

**Assumptions and Notes:**

- Actual energy usage, savings and emission reductions are compared to ASHRAE 90.1 version 2010.
- Lifetime cost avoidance include annual savings escalated over 30 years at 2.5% and maintenance costs.
- Operations and maintenance costs for achieving LEED v4 are assumed at 1% of initial cost for renewable energy sources but will need to be further evaluated in future projects.
- Additional credits to maintain LEED Silver to be achieved via combination of renewable energy, enhanced commissioning and innovation in design credits.
- Initial costs and savings for renewable energy sources do not include realization of tax credits.



Table 3.3

FOCUS AREA: INNOVATIVE ENERGY SOLUTIONS						
Target Range	Initial Cost	Annual Energy Savings	Annual Utility Cost Avoidance	Simple ROI	Lifetime Utility Cost Avoidance	Equivalent Emissions Reduction (CO <sub>2</sub> e) Lifetime
Pilot Project at Springfield Warehouse	\$1.25M	819,627 kWh	\$70,094	16-18 years	\$2.2M over 25 years	14,515 MT
2% Onsite Renewable Energy by 2030	\$8.7M	5.2M kWh	\$471,097	18 years	\$12M over 20 years	67,905 MT
5% Onsite Renewable Energy by 2030	\$21.7M	13M kWh	\$1.18M	18 years	\$30.1M over 20 years	169,761 MT

**Assumptions and Notes:**

- Solar PV estimates were based on contractor-provided information.
- Solar projects are predicated on a thorough structural and electrical assessment.
- Other than the pilot project which has a brand-new roof, solar PV lifetime is based on a 20-year roof life.
- 2.5% escalation in electric rate was used to calculate lifetime cost avoidance.

Table 3.4

FOCUS AREA: ELECTRIC VEHICLES						
Target Range	Initial Cost	Annual Fuel Savings	Annual Gasoline Cost Avoidance	Simple ROI	Lifetime Cost Avoidance	Equivalent Emissions Reduction (CO <sub>2</sub> e) Lifetime
Level 2 Charging Station per Major Facility (20) by 2030	\$1,000,000					
5% of Passenger Vehicle Purchases Plug-In EV by 2030	\$181,288	12,852 gallons	\$93,500			1,265 MT
10% of Passenger Vehicle Purchases Plug-In EV by 2030	\$373,240	26,460 gallons	\$192,500			2,604 MT
15% of Passenger Vehicle Purchases Plug-In EV by 2030	\$559,860	39,690 gallons	\$288,750			3,905 MT

**Assumptions and Notes:**

- DVS will incentivize departments to purchase EV or plug-in EV. The initial cost reflects the difference between a fuel vehicle and an electric vehicle. Also, the number reflects a modest growth in passenger vehicles.
- 20 "major" County facilities would receive a charging station. Estimated cost includes charger, power management system, controller power panels and access to the Fuel Force system for tracking. Cost does not include permits and may change significantly based upon location of electrical panels.
- Commercial charges will increase because staff is not currently trained on the maintenance of electric vehicles. Education and additional equipment will be required for staff to maintain electric vehicles at County facilities, but estimates are not currently available.
- ROI assumes regular unleaded fuel is \$1.96/gal and electricity is \$0.08/kWh.
- U.S. Department of Energy Calculator assumes the Greenhouse Gas Emissions for a regular gasoline vehicle (Ford Fusion) is 5.9 tons per year and a plug-in hybrid (Ford Fusion) is 2.1 tons per year.

## APPENDIX 4: ESTIMATED EMISSIONS DATA

*Table 4.1*

Focus Area	Recommended Target	Cool Counties Comparison (Goal = 80%)		
		% of Regional 2005 GHGs	% of County 2005 GHGs	% of County Operations 2005 GHGs
Energy Use and Efficiency	20% reduction by 2029	0.07%	0.34%	23.0%
Green Building	LEED Silver V4	0.001%	0.004%	0.25%
Innovative Energy Solutions	Pilot Large Scale On-Site Solar	0.001%	0.004%	0.25%
Electric Vehicles	EV Charging Stations at 20 Major County Facilities and 5% EV Passenger Vehicle Purchase	0.0002%	0.001%	0.06%

# A publication of the County of Fairfax, Virginia

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The County of Fairfax is committed to a policy of nondiscrimination in all County programs, services and activities and will provide reasonable accommodations upon request.

Board Agenda Item  
July 10, 2018

10:30 a.m.

Matters Presented by Board Members

11:00 a.m.

CLOSED SESSION:

- (a) Discussion or consideration of personnel matters pursuant to Virginia Code § 2.2-3711(A) (1).
- (b) Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body, pursuant to Virginia Code § 2.2-3711(A) (3).
- (c) Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, and consultation with legal counsel regarding specific legal matters requiring the provision of legal advice by such counsel pursuant to Virginia Code § 2.2-3711(A) (7).
  - 1. *Walgreen Co. v. County of Fairfax, Virginia*, Case No. CL-2014-0016556 (Fx. Co. Cir. Ct.) (Mount Vernon District); *Walgreen Co. v. County of Fairfax, Virginia*, Case No. CL-2017-0007569 (Fx. Co. Cir. Ct.) (Mount Vernon District); *Walgreen Co. v. County of Fairfax, Virginia*, Case No. CL-2017-0007570 (Fx. Co. Cir. Ct.) (Dranesville District)
  - 2. Taxpayer Appeal to State Tax Commissioner Claiming Exemption from BPOL Tax under the Internet Tax Freedom Act
  - 3. *Glenn Myer v. All Dulles Area Muslim Society, a/k/a. ADAMS Center, Sergeant Trevor Steranko, et al.*, Case No. CL-2017-0010836 (Fx. Co. Cir. Ct.)
  - 4. *Fatemeh Najafian v. The Fairfax County Government, The Fairfax County Parks Authority and Recreation Services, Marshall Cooper, Sara Girello, Fairfax County Security Department, and The Fairfax County Police Department*, Case No. CL-2017-0017847 (Fx. Co. Cir. Ct.)
  - 5. *Andrea Infante v. James Harvey Doswell*, Case No. GV18-000366 (Fx. Co. Gen. Dist. Ct.)
  - 6. *Mary Lark Lovering v. Mickey Smith, Department of Public Works and Environmental Services, and County of Fairfax*, Case No. CL-2017-0006245 (Fx. Co. Cir. Ct.)
  - 7. *Saba Ishan v. James Jones*, Case No. CL17003539 (Alex. Cir. Ct.)
  - 8. *Wajma Sataryar v. James Jones*, Case No. CL17003834 (Alex. Cir. Ct.)

9. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia, and Leslie B. Johnson, Fairfax County Zoning Administrator v. John Jongki Lee and Eun Hee Lee*, Case No. CL-2017-0015187 (Fx. Co. Cir. Ct.) (Braddock District)
10. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Ramon A. Navorio*, Case No. CL-2017-0007129 (Fx. Co. Cir. Ct.) (Braddock District)
11. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Eaton Drive, LLC*, Case No. CL-2017-0005818 (Fx. Co. Cir. Ct.) (Dranesville District)
12. *Leslie B. Johnson, Fairfax County Zoning Administrator, and Elizabeth Perry, Property Maintenance Code Official for Fairfax County v. Carolyn Umstott Fisher, Trustee of the Carolyn W. Umstott Revocable Trust, and Nancy Susan Umstott, Trustee of the Carolyn W. Umstott Revocable Trust*, Case No. CL-2017-0004336 (Fx. Co. Cir. Ct.) (Dranesville District)
13. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Z Associates, LLC*, Case No. GV18-012150 (Fx. Co. Gen. Dist. Ct.) (Dranesville District)
14. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Larissa Omelchenko Taran*, Case No. CL-2017-0011715 (Fx. Co. Cir. Ct.) (Hunter Mill District)
15. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Juan Carlos Aranibar Chinchilla, Rossemary Jeanneth Arnez Villarroel, and A&A Investment, LLC*, Case No. CL-2016-0006961 (Fx. Co. Cir. Ct.) (Lee District)
16. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Ragheb Aburish*, Case No. CL-2017-0015519 (Fx. Co. Cir. Ct.) (Mason District)
17. *Leslie B. Johnson, Fairfax County Zoning Administrator, and Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Build America, LLC, and Bella Café and Lounge*, Case No. CL-2017-0007126 (Fx. Co. Cir. Ct.) (Mason District)
18. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Judy R. Moats*, Case No. GV18-013185 (Fx. Co. Gen. Dist. Ct.) (Mason District)
19. *Leslie B. Johnson, Fairfax County Zoning Administrator, and Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Sherry L. Frazier*, Case No. CL-2018-0007655 (Fx. Co. Cir. Ct.) (Mount Vernon District)
20. *Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Angela M. O'Sullivan*, Case No. GV18-010782 (Fx. Co. Gen. Dist. Ct.) (Providence District)

21. *Elizabeth Perry, Property Maintenance Code Official v. Donna Griffiths, Laszlo Pentek, and Kathleen Pentek*, Case No. GV18-012151 (Fx. Co. Gen. Dist. Ct.) (Providence District)
22. *Leslie B. Johnson, Fairfax County Zoning Administrator, and Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Melvin L. Bernard*, Case No. CL-2018-0000143 (Fx. Co. Cir. Ct.) (Springfield District)
23. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Roberta Couver*, Case No. CL-2017-0017257 (Fx. Co. Cir. Ct.) (Sully District)
24. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Wilfred Ibanez and Teresa Ibanez*, Case No. CL-2018-0008401 (Fx. Co. Cir. Ct.) (Sully District)
25. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Roberta Couver*, Case No. CL-2011-0007717 (Fx. Co. Cir. Ct.) (Sully District)
26. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Relentless MMA and Fitness, et al.*; Case No. GV18-003090 (Fx. Co. Gen. Dist. Ct.) (Sully District)



Board Agenda Item  
July 10, 2018

3:30 p.m.

Public Hearing on PCA 1996-LE-047 (HD Development of Maryland, Inc.) to Amend the Proffers for RZ 1996-LE-047, Previously Approved for a Retail Shopping Center to Permit Associated Modifications to Proffers and Site Design with an Overall Floor Area Ratio of 0.35 and a Waiver of Open Space Requirements, Located on Approximately 7.49 Acres of Land Zoned PDC (Lee District)

This property is located on the East side of Frontier Drive, West of Elder Avenue and South of Franconia Road. Tax Map 90-2 ((1)) 101A2 and 101B.

This public hearing was deferred by the Board at the June 5, 2018 meeting until July 10, 2018 at 3:30 p.m.

PLANNING COMMISSION RECOMMENDATION:

On April 26, 2018, the Planning Commission voted 11-0 (Commissioner Sargeant was absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of PCA 1996-LE-047, subject to the execution of proffers consistent with those dated April 3, 2018;
- Approval of a reaffirmation of a modification of the transitional screening and barrier requirement along the western property boundary, in favor of that shown on the proffered CDP/FDP, as approved on December 8, 1997 and as reflected on the FDPA; and
- Approval of a waiver of the 15 percent minimum required open space in the PDC District, in favor of the open space shown on the FDPA.

Concurrently, the Planning Commission voted 11-0 (Commissioner Sargeant was absent from the meeting) to approve FDPA 1996-LE-047, subject to the development conditions dated April 26, 2018.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:  
<https://www.fairfaxcounty.gov/planning-zoning/zoning-application-board-packages-fairfax-county-board-supervisors>

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)  
Katelyn Antonucci, Planner, DPZ

Board Agenda Item  
July 10, 2018

3:30 p.m.

Public Hearing on PCA 91-Y-006 (Trustees of Pender United Methodist Church) to Amend the Proffers for RZ 91-Y-006 Previously Approved for a Church with a Child Care Center to Permit Building Additions and Associated Modifications to Proffers and Site Design with an Overall Floor Area Ratio of 0.25, Located on Approximately 4.48 Acres of Land Zoned R-3, WS and HC (Sully District) (Concurrent with SE 2018-SU-001)

and

Public Hearing on SE 2018-SU-001 (Trustees of Pender United Methodist Church) to Permit a Church with a Child Care Center, Located on Approximately 4.48 Acres of Land Zoned R-3, WS and HC (Sully District) (Concurrent with PCA 91-Y-006)

This property is located on the North side of Lee Jackson Memorial Highway, West of Adler Woods Drive. Tax Map 45-4 ((1)) 8.

This property is located at 12401 Adler Woods Drive, Fairfax, 22033. Tax Map 45-4 ((1)) 8.

PLANNING COMMISSION RECOMMENDATION:

On June 28, 2018, the Planning Commission voted 12-0 to recommend the following actions to the Board of Supervisors:

- Approval of PCA 91-Y-006, subject to the execution of proffers dated May 29, 2018;
- Approval of SE 2018-SU-001, subject to the development conditions dated June 26, 2018; and
- Approval of the modification of the transitional screening and barrier requirements, pursuant to Section 13-305 of the Zoning Ordinance, in favor of that shown on the Generalized Development Plan/Special Exception Plat, as conditioned.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:  
<https://www.fairfaxcounty.gov/planning-zoning/zoning-application-board-packages-fairfax-county-board-supervisors>

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)  
Zack Fountain, Planner, DPZ

Board Agenda Item  
July 10, 2018

3:30 p.m.

Public Hearing on PCA/CDPA 2017-DR-014 (Stanley Martin Companies, LLC) to Amend the Proffers and Conceptual Development Plan for RZ 2017-DR-014, Previously Approved for Multi-Family Residential Development to Incorporate Two-Over-Two Multi-Family Stacked Homes and Associated Modifications to Proffers and Site Design at a Maximum Floor Area Ratio of 0.99, Located on Approximately 11.6 Acres of Land Zoned PRM (Dranesville District)

The Board of Supervisors deferred this public hearing at the June 5, 2018 meeting until July 10, 2018 at 3:30 p.m.

This property is located on the South side of Dulles Technology Drive between River Birch Road and Sunrise Valley Drive. Tax Map 16-3 ((1)) 4M

PLANNING COMMISSION RECOMMENDATION:

On June 21, 2018, the Planning Commission voted 9-2-1 (Commissioners Niedzielski-Eichner and Cortina voted against the motion; Commissioner Clarke abstained from the vote) to recommend the following actions to the Board of Supervisors:

- Approval of PCA 2017-DR-014 and CDPA 2017-DR-014, subject to proffers consistent with those dated June 18, 2018;
- Modification of the Use Limitations on Corner Lots in Sect. 2-505 of the Zoning Ordinance to all proposed structures to be located within corner lot restriction areas as shown on the CDPA/FDPA for Option #1;
- Modification of Sect. 2-506(1) of the Zoning Ordinance to allow scenery lofts located on roofs to occupy an area greater than 25% of the total roof area for Option #1;
- Modification of Sect. 2-506(2) of the Zoning Ordinance to allow a parapet wall to exceed the established height limit by more than three (3) feet as shown on the CDPA/FDPA for Option #1;
- Waiver of minimum loading space requirements set forth in Sect. 11-203 of the Zoning Ordinance to reduce the loading space requirements on site to permit two pick-up and drop off areas on-site for Option #1 and the reaffirmation of the waiver of minimum loading space requirements for Option #2;

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- Waiver of Sect. 11-302 of the Zoning Ordinance to allow private streets to be in excess of 600 feet for Option #1;
- Waiver of Sect. 9-0202.2J(2) of the Public Facilities Manual to provide ladder truck access to both the front and rear of buildings that are more than 50 feet in height for Option #1; and
- Waiver of Sect. 10-0306.1 of the Public Facilities Manual to allow trash and recycling collection to be picked up curbside for the two-over-two units in lieu of a dumpster for Option #1.

In a related action, the Planning Commission also voted 9-2-1 (Commissioners Niedzielski-Eichner and Cortina voted against the motion; Commissioner Clarke abstained from the vote) to approve FDPA 2017-DR-014, subject to development conditions dated June 8, 2018 and subject to approval of the concurrent PCA application by the Board of Supervisors.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:  
<https://www.fairfaxcounty.gov/planning-zoning/zoning-application-board-packages-fairfax-county-board-supervisors>

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)  
Sharon Williams, Planner, DPZ

Board Agenda Item  
July 10, 2018

4:00 p.m. -

Public Hearing on Amendments to Articles 2 and 3 of Chapter 3 of the Code of the County of Fairfax Re: Employees' and Uniformed Retirement Systems – Elimination of the Social Security Offset to Service-Connected Disability Benefits

ISSUE:

Public Hearing on amendments to Articles 2 and 3 of Chapter 3 of the Code of the County of Fairfax, County Employees. These changes to the Employees' and Uniformed Retirement Systems revise service-connected disability retirement benefits by eliminating the 5% reduction of Social Security benefits.

RECOMMENDATION:

The County Executive recommends that the Board approve amendments to the Employees' and Uniformed Retirement Systems for the purpose of changing the level of service-connected disability benefits. The Boards of Trustees for the Employees' and Uniformed Retirement Systems were advised of and agreed with these recommended changes.

TIMING:

On June 5, 2018, the Board authorized advertisement of a public hearing to consider this matter on July 10, 2018 at 4:00 pm.

BACKGROUND:

As part of the approval of the *FY 2018 Third Quarter Review* and adoption of the FY 2019 budget, the Board approved funding to eliminate the 5% Social Security offset for service-connected disability retirement benefits for both the Employees' and Uniformed Retirement Systems.

The current service-connected disability benefit provisions for the Employees' and Uniformed Retirement Systems are summarized below.

For the Employees' Retirement System: The service-connected disability benefit is two-thirds (66 2/3%) of salary. This benefit is reduced by 5% of Social Security disability benefits received at any age, or, at age 62, by 5% of the age-based Social Security benefit.

For the Uniformed Retirement System: For those retired prior to December 9, 1996, the benefit level is two-thirds (66 2/3%) of salary. If retired after December 8, 1996, there are two possible levels of benefit. The standard benefit is 40% of salary and a severe service-connected disability benefit is 90% of salary.

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All three levels of benefits are offset to some extent by Social Security benefits. There is a 5% offset of disability benefits provided by Social Security. This offset occurs regardless of age unless the Social Security benefit is based on a disability other than that for which the employee was retired. If the retiree is not eligible for Social Security disability benefits and is eligible to receive a Social Security benefit based on age, for those with a 66 2/3% or a 90% benefit, there is a 5% offset of the age-based Social Security benefit that occurs at age 62, the first date of eligibility for Social Security benefits.

Benefits in both Systems are also offset by any workers' compensation benefits that are being received.

Proposed Revisions

The proposed amendments would enhance service-connected disability retirement benefits by eliminating the Social Security offsets, currently 5%, effective with the July 2018 retiree payroll.

FISCAL IMPACT:

Based on the final actuarial analysis, elimination of the 5% offset provisions would increase the liability of the Employees' and Uniformed Retirement Systems by a total of \$1.5 million due to applying new provisions to past years of service. As required by the revised funding provisions adopted into the Fairfax County Code by the Board on July 28, 2015, this increase in liability must be fully funded with a one-time employer contribution to avoid creation of any unfunded liability. Total funding of \$1.5 million was approved by the Board as part of the *FY 2018 Third Quarter Review* to address this one-time funding requirement based on preliminary actuarial estimates. In accordance with the Fairfax County Code, these increases to the employer contribution rates will be effective beginning in FY 2019. No increase in the employer contribution rates is necessary for FY 2019.

ENCLOSED DOCUMENTS:

Attachment 1: Amendment to Chapter 3, Article 2  
Attachment 2: Amendment to Chapter 3, Article 3  
Attachment 3: Cheiron Letter

STAFF:

Joseph Mondoro, Chief Financial Officer  
Jeffrey Weiler, Executive Director, Fairfax County Retirement Systems

ASSIGNED COUNSEL:

Benjamin R. Jacewicz, Assistant County Attorney

ARTICLE 2. - Fairfax County Employees' Retirement System. [1](#)

## Footnotes:

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7. Editor's note— Ord. No. 20-81-3 amended Art. 2 to read as set forth in §§ 3-2-1—~~3-2-51~~3-2-50.  
Formerly, Art. 2 consisted of §§ 3-2-1—~~3-2-48~~3-2-47, and was derived from the following legislation:

Ord. Nos. 6-15-55, §§ 1—20, 22—40; 5-8-63; 6-23-65; and 10-21-70; 1961 code, §§ 9-22—9-68; and Ord. No. 10-74-9.

## Division 1. - Generally.

## Section 3-2-1. - Fairfax County Employees' Retirement System established.

Under the authority of Section 51.1-801 of the *Virginia Code*, there is hereby established a retirement system for employees, formerly known as the Fairfax County Supplemental Retirement System, to be known henceforth as the "Fairfax County Employees' Retirement System," by and in which name it shall, pursuant to the provisions of this Article, transact all of the System's business. The Fairfax County Employees' Retirement System is intended to satisfy the requirements of Sections 401(a) and 414(d) of the Internal Revenue Code for qualified governmental pension plans. (20-81-3; 10-01-3; 50-13-3; 2-16-3.)

## Section 3-2-2. - Definitions.

Unless provided otherwise in another Section, the following definitions shall apply to this Article:

(a) *Accrued sick leave credit* shall mean:

- (1) For employees whose County or School Board employment commenced by reporting for work before January 1, 2013 (members of Plans A or B), the credit allowed a member with more than five years of service for purposes of determining retirement eligibility. Credit shall be allowed at the rate of one month for every 172 hours of accrued unused sick leave, and pro rata credit shall be allowed for each fraction thereof.
- (2) For employees whose County or School Board employment commenced by reporting for work on or after January 1, 2013 (members of Plans C or D), the credit allowed a member with more than five years of service for purposes of determining retirement eligibility. Credit shall be allowed at the rate of one month for every 172 hours of accrued unused sick leave, and pro rata credit shall be allowed for each fraction thereof; however, for employees whose County or School Board employment commenced by reporting to work on or after January 1, 2013, notwithstanding the amount of the employee's accrued sick leave balance, the maximum amount of accrued sick leave credit that may be used for determining retirement eligibility and for computing the member's retirement allowances and benefits shall be the employee's accrued sick leave balance or 2,080 hours, whichever is less.

(b) *Accumulated contributions* shall mean the sum of all amounts deducted or picked up from the compensation of a member and credited to his or her individual account in the members' contribution account, any amounts transferred from another retirement plan pursuant to Section 3-2-24.1, together with interest credited on such amounts and any other amounts he or she shall have contributed, or transferred thereto, as provided in Section 3-2-28(c).(c) *Actuarial equivalent* shall mean a benefit of equal value when computed upon the basis of such actuarial tables as are adopted by the Board.(d) *Average final compensation* shall mean the average annual creditable compensation of a member during the 36 consecutive months (78 consecutive pay periods for members who are paid on a biweekly basis) in which the member received his or her highest creditable compensation.

- (1) In the event that a member's creditable service is less than 36 months (78 pay periods), his or her average final compensation shall be his or her average monthly creditable compensation received during the entire period of creditable service multiplied by 12 (average biweekly creditable compensation multiplied by 26 for biweekly paid members).

- (2) In determining average final compensation for members who retire after July 1, 1988, the member's accrued unused sick leave at the time of retirement may, at the option of the member, be substituted for an equivalent period of creditable service as if the member had continued to work at his or her final salary during the period of his or her accrued unused sick leave; provided, that in determining the average final compensation for members who became members of the System on or after January 1, 2013 (members of Plans C or D), no more than 2,080 hours of the member's accrued unused sick leave may be used for this purpose.
- (3) For purposes of computing a service-connected disability retirement allowance under Section 3-2-36, a member's average final compensation shall be computed as if a member had received compensation (including salary increases which the Board determines would have been awarded to the member) for any period prior to retirement during which the member ceased employment on account of a disability for which he or she received compensation benefits under the Virginia Workers' Compensation Act.
- (4) Notwithstanding the foregoing, whenever the Director of the Department of Human Resources, at the request of the Board, the member, or the member's beneficiary, determines that the member's receipt of a merit increment was delayed as a result of either or both of the amendments to Section 4.3-2 of the Personnel Regulations, effective July 13, 1991, and July 11, 1992, respectively, and that the member would otherwise have been entitled to such merit increment under the Personnel Regulations, based upon the Human Resources Director's review of the member's County personnel and payroll records, the Board shall calculate the member's average final compensation in a manner which approximates the average final compensation the member would have if the member had received the merit increment at the time he or she would have been entitled to receive such merit increment but for the aforesaid amendments to Section 4.3-2 of the Personnel Regulations. In performing such calculation, the Board shall utilize the following assumptions:
  - (A) If the employee was scheduled to receive a merit increment in fiscal years 1992 and/or 1993, then it was delayed.
  - (B) The employee received no promotions, demotions, reclassifications or regrades from the date of the delayed merit increment(s).
  - (C) The employee moved through the steps of the pay grade as quickly as possible according to his or her respective pay plan.
  - (D) The delayed merit increments and all future merit increments occurred on the day and the month which is the same day and month when the employee retires.
  - (E) The employee is in full employment each year if in full employment at the time of the delayed merit increment and also at the time of retirement.

A factor shall be derived utilizing these assumptions, and then used to calculate the increase, if any, in the member's final average compensation. If at the time of retirement, the employee has service credit for three years or more at the longevity step of the pay grade in which his or her position falls, then there shall be no adjustment to the member's average final compensation. This rule shall apply to all applications for allowances and benefits filed with the Board on or after July 13, 1991. The Board shall make any necessary retroactive adjustments to allowances and benefits.

- (5) Notwithstanding the foregoing, in the case of any SESRP member, creditable compensation for each year after the effective date of the agreement referenced in Subsection (cc) shall equal 1.05634 times the SESRP member's unadjusted compensation.
- (6) Periods of leave without pay under the federal Family and Medical Leave Act of 1993 (FMLA) shall be disregarded in determining periods of consecutive months or pay periods in calculating average final compensation.



- (e) *Beneficiary* shall mean any person, other than a member, entitled to receive benefits as provided by the System. The Board shall provide a member with a form on which to designate in writing one or more beneficiaries of the member's benefits upon the member's death. The Board shall maintain any such written designation on file. A designated beneficiary may be changed from time to time by written notice by the member filed with the Board.
- (f) *Board* shall mean the Board of Trustees of the System, as provided for in this Article.
- (g) *Creditable compensation* shall mean the full compensation, including pick-up contributions, holiday hours worked, administrative emergency leave worked, shift differential paid and civilian roll call hours paid, but excluding all overtime pay except roll call hours paid, earned on or after July 1, 1993, and excluding performance bonuses, and amounts paid upon separation from employment which represent the unused portion of the employee's accrued annual leave. In cases where the compensation includes maintenance and other prerequisites, the Board shall fix the value of that portion of the compensation not paid in money. Effective for plan years after December 31, 1988, compensation in excess of \$200,000.00, as indexed under Section 415(d) of the Internal Revenue Code, shall be disregarded. Notwithstanding the foregoing, effective for members whose County or School Board employment commenced by reporting for work on or after July 1, 1996, compensation in excess of the limit set forth in Section 401(a)(17) of the Internal Revenue Code shall be disregarded. In determining the compensation of an employee under this definition, the rules of Section 415(c)(3) of the Internal Revenue Code shall apply. Effective for plan years on or after January 1, 2001, an employee's compensation shall include amounts not includible in gross income by reason of Section 132(f)(4) of the Internal Revenue Code.
- (h) *Creditable service* shall mean the sum of membership service credit, plus prior service credit, plus portability service credit purchased pursuant to Section 3-2-24.1, plus accrued sick leave credit.
- (i) *DROP* shall mean the Deferred Retirement Option Program, as provided for by Section ~~3-2-573-2-56~~.
- (j) *Employee* shall mean any person regularly employed in rendering service to the County whose compensation is fully or partially paid directly or indirectly by the County. It shall also include all officers and other persons regularly employed by the School Board who are not eligible for membership in the Virginia Retirement System (VRS).
- (k) *Employer* shall mean the School Board or an authority in the general County having the power to appoint an employee to office or employment paid directly or indirectly by the County and/or the Board of Trustees of the System.
- (l) *Executive Director* shall mean the Executive Director of the Fairfax County Retirement Administration Agency.
- (m) *Internal Revenue Code* shall mean the federal income tax statutes, as they may be amended or superseded from time to time in the future.
- (n) *Medical Examining Board* shall mean the physician or physicians provided for by Section 3-2-9.
- (o) *Member* shall mean any person included in the membership of the System as provided for by Section 3-2-19.
- (p) *Membership service credit* shall mean credit for service rendered while a member of the System, or as otherwise provided in Section 3-2-23. Service rendered while a member of SESRP shall be treated without duplication as service rendered while a member of the System.
- (q) *Normal retirement date* shall mean:
  - (1) For employees whose County or School Board employment commenced by reporting for work before January 1, 2013 (members of Plans A and B),
    - (A) The date on which a member in service attains the age of 50 years, provided said member's age while in service, combined with the years of his or her creditable service, equals at least the sum of 80 years; or

- (B) The date on which a member attains the age of 65 years.
- (2) For employees whose County or School Board employment commenced by reporting for work on or after January 1, 2013 (members of Plans C and D),
  - (A) The date on which a member in service attains the age of 55 years, provided age while in service, combined with the years of his or her creditable service, equals at least the sum of 85 years; or
  - (B) The date on which a member attains the age of 65 years.
- (r) *Pick-up contributions* shall mean a member's regular contributions which is picked up, through a salary reduction by the County from the member's compensation for service rendered on or after December 22, 1984.
- (s) *Plan A* shall mean the option effective July 1, 1981, available to employees whose County or School Board employment commenced by reporting for work on or before December 31, 2012, providing for current and new members to:
  - (1) Contribute four percent of compensation up to the taxable wage base and five and one-third percent of compensation in excess of the taxable wage base; and
  - (2) Receive normal (and early) service retirement benefits based on one and eight-tenths percent of average final compensation up to the social security breakpoint plus two percent of average final compensation in excess of the social security breakpoint times years of service.
- (t) *Plan B* shall mean the option effective July 1, 1981, available to employees whose County or School Board employment commenced by reporting for work on or before December 31, 2012, providing for current and new members to:
  - (1) Contribute five and one-third percent of all compensation; and
  - (2) Receive normal (and early) service retirement benefits based on two percent of the average final compensation times years of service.
- (u) *Plan C* shall mean the option effective beginning on January 1, 2013, providing for current and new members to:
  - (1) Contribute four percent of compensation up to the taxable wage base and five and one-third percent of compensation in excess of the taxable wage base; and
  - (2) Receive normal (and early) service retirement benefits based on one and eight-tenths percent of average final compensation up to the social security breakpoint plus two percent of average final compensation in excess of the social security breakpoint times years of service; subject to the definitions, terms and conditions applicable to Plan C set forth herein.
- (v) *Plan D* shall mean the option effective beginning on January 1, 2013, providing for current and new members to:
  - (1) Contribute five and one-third percent of all compensation; and
  - (2) Receive normal (and early) retirement benefits based on two percent of the average final compensation times years of service; subject to the definitions, terms and conditions applicable to Plan D set forth herein.
- (w) *Primary social security benefit* shall mean the primary insurance amount to which the member is entitled, for old age or disability, as the case may be, pursuant to the federal Social Security Act as in effect at his or her date of retirement, under the provisions of this Chapter, except as otherwise specifically provided.
- (x) *Prior service credit* shall mean credit for service rendered prior to the establishment of the Fairfax County Supplemental Retirement System (the predecessor of this System) on July 1, 1955, as provided in Section 3-2-24.

- (y) *Retirement allowance* shall mean the retirement payments to which a member is entitled as provided in this Article.
- (z) *School Board* shall mean the Fairfax County School Board, a political subdivision of the Commonwealth of Virginia.
- (aa) *Service* shall mean service as an employee for which compensation is paid by the employer, but shall not include time spent on leave without pay.
- (bb) *SESRP* shall mean the former Fairfax County Senior Executive Service Retirement Plan.
- (cc) *SESRP member* shall mean an individual who entered into an agreement with the County to participate in SESRP in lieu of further participation in the System and who was either still an active participant in SESRP or still receiving benefits under SESRP on January 1, 1996.
- (dd) *Social security* shall mean the federal Social Security Act and its programs for old age, survivors and disability insurance and benefits, as applicable.
- (ee) *Social security breakpoint* shall mean the average of the taxable wage base for the 35 calendar years ending with the year in which the member attains social security normal retirement age. In determining a member's social security breakpoint during any particular plan year, it is assumed that the taxable wage in effect at the beginning of the plan year shall remain the same for all future years.
- (ff) *System* shall mean the Fairfax County Employees' Retirement System. When any part of this Article refers to multiple retirement systems, the Employees' Retirement System shall be referred to as "this System," rather than "the System."
- (gg) *Taxable wage base* shall mean the maximum amount of wages received during the calendar year on which social security taxes are payable by a member and by the employer, as such amount is defined in Section 3121(a) of the Internal Revenue Code. (20-81-3; 5-85-3; 28-89-3; 27-90-3, § 1; 15-93-3; 22-93-3; 37-94-3; 25-95-3; 27-97-3; 14-00-3; 10-01-3; 18-01-3; 8-03-3; 8-04-3; 26-12-3; 2-16-3.)

Section 3-2-2.1. - Definitions elsewhere in County Code and in County Personnel Regulations.

Unless this Article provides otherwise, the definitions provided in Sections 1-1-2, 3-3-1, and 3-3-12 of the Code of the County of Fairfax, and Chapter 2 of the Fairfax County Personnel Regulations shall apply herein. (2-16-3.)

Section 3-2-3. - Duties of the employer.

The employer shall keep all necessary records relating to the hiring and employment of members and from time to time shall furnish such information as the Board may require in the discharge of its duties. Upon employment of a member, the employer shall inform the member of his or her duties and obligations in connection with the System as a condition of employment. (20-81-3; 2-16-3.)

Section 3-2-4. - Consent to provisions of Article required for employment.

By and upon acceptance of employment, every member shall be deemed to consent and agree to any deductions or employer pick-up of amounts from his or her compensation required by this Article and to all other provisions thereof. (20-81-3; 5-85-3; 2-16-3.)

Section 3-2-5. - Protection against fraud.

- (a) In addition to any other provisions of law, any person who shall knowingly make any false statement, or shall falsify or permit to be falsified, any record or records of the System in any attempt to defraud the System shall be guilty of a misdemeanor and shall be punished accordingly.
- (b) Any person who shall knowingly make any false statement or shall falsify or permit to be falsified any record or records of the System in an attempt to defraud the System shall forfeit all rights to the retirement allowance or benefit obtained by such misrepresentation. Making a false statement or falsifying or permitting to be falsified any record of the System, in an attempt to defraud the System shall constitute grounds for dismissal from service.

- (c) Whenever the Board shall find, after notice and hearing, that a person has obtained a retirement allowance or benefit from the System by false statement or falsification of record, it shall immediately terminate the allowance or benefit if the entire allowance or benefit was obtained by such misrepresentation or the additional amount of the allowance or benefit so obtained by such misrepresentation. Any allowance or benefit or additional amount of an allowance or benefit obtained by false statement or falsification of a record shall be deemed to be an overpayment, and the Board shall take all necessary legal and administrative steps to recover the overpayment.
- (d) The Board shall adopt rules and regulations pursuant to Section 3-2-15 to implement the provisions of this Section; provided, that the failure of the Board to do so shall not prevent the implementation of the sanctions called for by this Section. A final judgment of conviction by a court of competent jurisdiction in a prosecution under Subsection (a) of this Section shall be prima facie evidence of fraud under Subsections (b) and (c) of this Section; provided, that a conviction under Subsection (a) of this Section shall not be a prerequisite for action by the Board under Subsections (b) or (c) of this Section. The remedies provided the System under this Section are in addition and supplemental to any other remedies it may have under law. (20-81-3; 27-90-3, §1; 2-16-3.)

Section 3-2-6. - Benefits unassignable; non-attachable.

The right of any member to a retirement allowance, to the return of accumulated contributions or any other right accrued or accruing to any person under this Article and the money covered by this Article shall not be subject to execution, garnishment or attachment, and to the extent permitted by law, the operation of bankruptcy or insolvency law or any other process of law whatsoever except for administrative actions pursuant to Section 63.2-1900 et seq. of the *Virginia Code* or any court process to enforce a child or child and spousal support obligation, and shall be unassignable except as specifically provided in this Article. However, retirement benefits and assets created under this Article which are deemed to be marital property pursuant to Section 20-89.1 et seq. of the *Virginia Code* may be divided or transferred by the court by direct assignment to a spouse or former spouse pursuant to Section 20-107.3 of the *Virginia Code*. (20-81-3; 5-85-3; 13-92-3; 1-93-3; 2-16-3.)

Section 3-2-7. - Errors resulting in over or under-payment.

- (a) Should any change or error in the records or in the computation of a member's or beneficiary's benefit or refund result in any member or beneficiary receiving from the System an amount more (overpayment) or less than he or she would have been entitled to receive had the records or computation error been correct, the Board shall have the power to correct such error and, as far as practicable, to adjust the payments in such a manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled shall be paid.
- (b) An overpayment shall constitute a debt owed by the recipient to the System and the Board is authorized to use any and all legal action to collect the overpayment and any accrued interest.
- (c) The Board is authorized to enter into written agreements with recipients of overpayments to provide for installment payments to recover the overpayment, the amount of accrued interest, and interest on any unpaid balance.
- (d) The Board is authorized to compromise any disputed overpayment.
- (e) Interest shall accrue on overpayments at the rate or rates established by the Board; provided, that no interest shall accrue if the Board has exercised its adjustment authority under Subsection (a) of this Section or under any other circumstances in which the Board, in its discretion, determines that interest shall not accrue. (20-81-3; 27-90-3, § 1; 2-16-3.)

Section 3-2-8. - Amendment of article.

The Board of Supervisors shall have the continuing right and power to amend or supplement this Article at any time, which right and power is hereby expressly reserved. But no amendment shall be made unless an actuarial report has been filed with the Board of Supervisors as to its effect upon the System and no amendment shall be adopted which shall reduce the then accrued benefits of members or beneficiaries below the extent they are then covered by accumulated reserves, which reserves shall constitute a trust fund for the payment of such benefits. At least 30 days prior to the public hearing before the Board of Supervisors on any proposed amendment, the Board of Trustees of the System shall be provided with the

text of the proposed amendment to provide it the opportunity to submit its comments on the proposed amendment to the Board of Supervisors; provided, this limitation shall not prevent the Board of Supervisors from adopting an emergency amendment under Section 15.2-504 of the *Virginia Code*. (20-81-3; 27-90-3, § 1; 2-16-3.)

Section 3-2-9. - Medical examining board.

The Medical Examining Board shall consist of the Director of the Health Department (or his or her designee) and, in the discretion of the Board, one or two other physicians designated by the Board. The duties of the Medical Examining Board shall be to arrange for and pass upon all medical examinations required under this Article or requested by the Board and to investigate all essential statements and certificates by or on behalf of a member in connection with an application for disability retirement. The members of the Medical Examining Board, who may act individually or collectively, shall report in writing to the Board their conclusions and recommendations upon all matters referred to it. (20-81-3; 27-97-3; 2-16-3.)

Division 2. - Board of Trustees.

Section 3-2-10. - Administration of system vested in Board of Trustees.

The general administration and the responsibility for the proper operation of the System and for making effective the provisions of this Article are hereby vested in the Board. The Board in its discretion, may, by rule or regulation adopted under Section 3-2-15(a), delegate authority to the Executive Director to perform certain duties and administrative responsibilities. (20-81-3; 27-90-3, § 12-16-3.)

Section 3-2-11. - Membership; term of office.

(a) The Board of Trustees of the System shall consist of the following members:

- Director of the Department of Finance, who shall be the Treasurer of the Board, or his or her permanent designee, sitting ex officio;
- Director of the Department of Human Resources, or his or her permanent designee, sitting ex officio;
- Assistant Superintendent for Human Resources for the Fairfax County Public Schools, or his or her permanent designee, sitting ex officio;
- Four persons appointed by the Board of Supervisors;
- One School Board employee elected by the members of the System;
- One County employee elected by members of the System who are County employees; and
- One retired member elected by retired members of the System.

Responsibility for the conduct of said elections shall rest with the County Executive.

(b) With the exception of the Director of the Department of Finance, the Director of the Department of Human Resources, and the Assistant Superintendent for Human Resources the term of office of the trustees shall be four years. The only persons eligible to be elected by County or School Board employees to the Board are County or School Board employees who are members of the System, respectively. The office of such trustees shall be vacated should such trustees separate from County or School Board service prior to completion of their term. (20-81-3; 27-90-3, § 1; 9-91-3; 2-93-3; 2-16-3.)

Section 3-2-12. - Vacancies in office.

If a vacancy occurs in the office of a trustee of the System, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled. (20-81-3; 2-16-3.)

Section 3-2-13. - Compensation of trustees.

Those trustees eligible for compensation under County policy may receive compensation at a rate set by the Board of Supervisors. (20-81-3; 2-16-3.)

Section 3-2-14. - Accountable to the Board of Supervisors.

The Board of Trustees of the System shall be accountable to the Board of Supervisors. (20-81-3; 2-16-3.)

Section 3-2-15. - Functions of the Board.

- (a) Subject to the limitations of this Article, the Board shall, from time to time, establish rules and regulations for the administration of the System and for the transaction of its business, copies of which shall be made available to interested parties.
- (b) The Board may employ and pay out of the System funds for all services as shall be required.
- (c) The Board shall keep in convenient form such data as shall be necessary for an actuarial valuation of the System and for checking the experience of the System.
- (d) The Board shall keep minutes of all its proceedings. These minutes shall be open to the public for inspection, unless applicable law provides otherwise.
- (e) The Board shall submit to the Board of Supervisors annually an independent audit showing the fiscal transactions of the System for the preceding fiscal year, the amount of accumulated cash and securities of the System, and the last balance sheet indicating the financial condition of the System.
- (f) Beginning on July 1, 1990, the Board shall cause an actuarial valuation to be made of the System annually.
- (g) The Board shall review adverse decisions as provided by Section ~~3-2-49~~3-2-48. (20-81-3; 27-90-3, § 1; 2-16-3.)

Division 3. - Management of Funds.

Section 3-2-16. - Board trustee of funds; investment of same.

- (a) The Board shall be the trustees of funds created by this Article and shall have full power to invest and re-invest such funds. Such investments and re-investments shall be conducted with bona fide discretion and in accordance with the laws of the Commonwealth of Virginia as such laws apply to fiduciaries investing such funds. The Board may, upon the exercise of bona fide discretion, employ investment counsel, who shall be subject to the same limitations herein provided for the Board. Subject to such limitations, the Board shall have full power to hold, purchase, sell, assign, transfer or otherwise dispose of any of the securities or investments in which any of the funds created herein have been invested, as well as the proceeds of such investments and any money belonging to such funds.
- (b) No trustee shall be personally liable for losses suffered by the System on investments made under the authority of and in compliance with this Section. (20-81-3; 2-16-3.)

Section 3-2-17. - Treasurer fiscal officer of the Board.

The Treasurer of the Board shall be the custodian of all of its funds and securities or evidences of such when in the custody of a fiduciary agent. He or she shall give bond as a condition for the faithful performance of his or her duties and the proper accounting of all funds and securities coming into his or her hands. He or she shall deposit all money in the name of the Board and disburse the same only on vouchers signed by such person as is designated for the purpose by the Board. (20-81-3; 2-16-3.)

Section 3-2-18. - Prohibited interest of member or employee of Board.

- (a) The State and Local Government Conflict of Interests Act, Section 2.2-3100 et seq., of the *Virginia Code*, shall apply to members and employees of the Board.
- (b) No member or employee of the Board shall, directly or indirectly, for himself or herself or as an agent in any manner use the funds of the System, except to make such current and necessary payments as are authorized by the Board. (20-81-3; 2-16-3.)

Division 4. - Membership in System.

Section 3-2-19. - Membership composition.

- (a) Membership shall be composed of the following:

- (1) All persons who were members of the System on the effective date of this Article and all SESRP members; provided, that benefits under the System in the case of SESRP members shall be in lieu of, and not in addition to, benefits under SESRP.
- (2) Future employees as hereinafter identified, except those listed in Subparagraphs (A) and (B) of this Subsection.
  - (A) Employees who are members of the Virginia Retirement System (VRS) and the Educational Employees' Supplemental Retirement System of Fairfax County (ERFC), the Fairfax County Police Officers Retirement System, or the Fairfax County Uniformed Retirement System and employees who are eligible to become members of those systems, are not eligible for membership in this System; provided, that an employee who is a member of such a system shall be eligible for membership in this System if he or she elects in writing to withdraw from such system, pursuant to the rules and regulations of this System and of the system of which he or she was previously a member. If the withdrawal from the other system occurs due to being employed in a different position by the same appointing authority, the employee shall be required to purchase service credit under this System for service rendered while a member of such other system, pursuant to the rules of Section 3-2-23.

If the withdrawal from the other system occurs due to being employed by a different appointing authority, the employee shall be permitted but not required to purchase service credit under this System for service rendered while a member of such other system, pursuant to the rules of Section 3-2-23. Exempt benefits eligible and exempt temporary employees are not eligible for membership in this System; provided, that any such employee who became a member of this System under the provisions of this Article in effect at the time he or she commenced his or her service with the County shall continue to be a member.

The following employees who elect, in writing at the time of their initial eligibility not to become members of the System, shall be exempted from the System: elected officials, including constitutional officers and persons appointed to fill vacancies in elective offices, and their appointed deputies or assistants.

- (B) School Board employees who are members of the Virginia Retirement System (VRS) are not eligible for membership in this System. Substitute employees, food service employees whose assigned employment is less than three hours per day, and temporary employees are not eligible for membership in this System.
- (3) Any employee, otherwise qualified, who elected not to or was unable to become a member of the System pursuant to any ordinance then in effect; provided, he or she pays into this System all contributions which would have been due from him or her had he or she been a member of the System during the period of his or her employment, plus interest on such contributions at the rate or rates established by the Board, for each of the years for which membership service credit is sought. Any election to purchase membership service credit under this Subsection through the payment of contributions for a prior period of employment shall be made within one year after the employee is first eligible to make such an election or by six months from the effective date of this amendment [September 17, 1990], whichever is later.
- (b) Uniformed employees of the Department of Animal Control transferring to the Fairfax County Uniformed Retirement System.
  - (1) Members of this System who were uniformed employees of the Department of Animal Control, including the Director, on or after October 1, 1985, except those eligible to remain in this System pursuant to Subsection (d)(2) of this Section, are hereby transferred to membership in the Fairfax County Uniformed Retirement System effective the latter of October 1, 1985, or the date of their appointment.
  - (2) Those members subject to transfer to the Uniformed Retirement System pursuant to Subsection (d)(1) of this Section who as of the date of adoption of this Subsection [December 16, 1985] have attained normal retirement age under this System shall continue as members of this System unless within 30 days after the adoption of this Subsection they make an irrevocable election in writing to transfer into the Uniformed Retirement System pursuant to this Subsection.

- (3) Members of this System being transferred to the Uniformed Retirement System pursuant to this Subsection shall, within 30 days of the adoption of this Subsection [December 16, 1985], make an irrevocable election in writing to either waive membership service credit in the Uniformed Retirement System based upon their service in this System or to purchase membership service credit in the Uniformed Retirement System based on their service in this System pursuant to the provisions of Section 3-3-24. Members who fail to make an election shall be deemed to have elected to waive membership service credit.
  - (4) Members with five or more creditable years of service with this System who elected to waive membership service credit in the Uniformed Retirement System pursuant to Subsection (d)(3) of this Section shall make at the same time an irrevocable election in writing whether to receive a refund of their accumulated contributions (with interest), reduced by the amount of any retirement allowances previously received by them under this Article, or to receive a deferred vested benefit from this System mutatis mutandis, under Section 3-2-38(b). Members who fail to make an election shall be deemed to have elected a refund. Members with less than five years of creditable service with this System who elect to waive membership service credit in the Uniformed Retirement System pursuant to Subsection (d)(3) of this Section shall be refunded their accumulated contributions (with interest) reduced by the amount of any retirement allowances previously received by them under this Article.
  - (5) With respect to each member electing to purchase membership service credit in the Uniformed Retirement System pursuant to Subsection (d)(3) of this Section, the Board shall transfer the funds in the member's contribution account as well as those funds in the retirement allowance account attributable to the member's service to the Board of Trustees of the Uniformed Retirement System, who shall credit such funds to the appropriate accounts of the Uniformed Retirement System.
  - (6) The Board shall transfer to the Board of Trustees of the Uniformed Retirement System any employee or employer contributions received by it attributable to members transferring to the Uniformed Retirement System pursuant to Subsection (d)(1) or (2) of this Section for service rendered after the effective date of the members' transfer. The Board of Trustees of the Uniformed Retirement System shall credit such funds to the appropriate accounts of the Uniformed Retirement System.
- (c) Certain employees of the Public Safety Communications Center in the job classes of Public Safety Communications Squad Supervisor, Public Safety Communications Assistant Squad Supervisor, Public Safety Communicator III, Public Safety Communicator II, or Public Safety Communicator I transferring to the Fairfax County Uniformed Retirement System.
- (1) Members of this System who are in one of the job classes identified in this Subsection, on or before June 30, 2005, shall have the opportunity to transfer to membership in the Fairfax County Uniformed Retirement System, effective the start of the first pay period beginning on or about October 1, 2005.
  - (2) Members of this System who are eligible for transfer to the Uniformed Retirement System pursuant to Subsection (e)(1) of this Section may elect to maintain their membership in this System and not transfer to the Uniformed Retirement System.
  - (3) Members of this System who are eligible for transfer to the Uniformed Retirement System pursuant to Subsection (e)(1) of this Section and elect to do so, shall, after the adoption of Subsection (e) of this Section, on or before September 1, 2005, make an irrevocable election in writing to transfer to the Uniformed Retirement System. Members electing to transfer to the Uniformed Retirement System may elect to transfer to the Uniformed Retirement System but not purchase membership service credit in the Uniformed Retirement System based upon their service in this System, or may elect to purchase membership service credit in the Uniformed Retirement System based on their service in this System pursuant to the provisions of Section 3-3-24. Transferring members who fail to make an election shall be deemed to have elected to waive the opportunity to purchase membership service credit in the Uniformed Retirement System.



- (4) Members with five or more creditable years of service with this System who elect to waive membership service credit in the Uniformed Retirement System shall make at the same time an irrevocable election in writing whether to receive a refund of their accumulated contributions with interest reduced by the amount of any retirement allowance previously received by them under this Article, or to receive a deferred vested benefit from this System mutatis mutandis, under the provisions of Section 3-2-38(b). Members who fail to make an election shall be deemed to have elected not to receive a deferred vested benefit. Members with less than five years of creditable service with this System who elect to waive membership service credit in the Uniformed Retirement System pursuant to Subsection (e)(3) of this Section shall be refunded their accumulated contributions (with interest) reduced by the amount of any retirement allowances previously received by them under this Article.
- (5) With respect to each member electing to purchase membership service credit in the Uniformed Retirement System pursuant to Subsection (e)(3) of this Section, the Board shall transfer the funds in the member's contribution account as well as those funds in the retirement allowance account attributable to the member's service to the Board of Trustees of the Uniformed Retirement System, who shall credit such funds to the appropriate accounts of the Uniformed Retirement System. Members electing to purchase membership service credit in the Uniformed Retirement System shall have the option of paying to the Board of Trustees of the Uniformed Retirement System the difference between the employee contributions that would have been required under the Uniformed Retirement System plus interest, and their employee contributions plus interest to this System for the period for which membership service credit is sought. Members who elect to pay the difference between the employee contributions plus interest that would have been required under the Uniformed Retirement System and their employee contributions plus interest to this System, shall not be eligible to enter the DROP under the Uniformed Retirement System until the entire amount of the difference in employee contributions plus interest has been paid to the Uniformed Retirement System and the member otherwise meets the eligibility requirements to enter the DROP under the Uniformed Retirement System. In lieu of paying the difference between the employee contributions that would have been required under the Uniformed Retirement System plus interest and their employee contributions plus interest to this System, a member may elect to have the amount of membership service credit transferred to the Uniformed Retirement System actuarially reduced based on the amount that would have been required.
- (6) The Board shall transfer to the Board of Trustees of the Uniformed Retirement System any employee or employer contributions received by it attributable to member's transfer to the Uniformed Retirement System pursuant to Subsection (e)(1) or (2) of this Section for service rendered after the effective date of the member's transfer. The Board of Trustees of the Uniformed Retirement System shall credit such funds to the appropriate accounts of the Uniformed Retirement System.
- (7) Members of this System in one of the job classes identified in this Subsection who elect to enter the DROP on or before September 1, 2005, are not eligible for transfer to the Uniformed Retirement System.
- (d) Notwithstanding any other provision of this Chapter or Article to the contrary, an active member of either the Fairfax County Uniformed Retirement System or the Fairfax County Police Officers Retirement System who has more than five years of creditable service in such system and who is appointed to serve as a Deputy County Executive shall remain a member of the system to which he or she belonged, whether the Uniformed Retirement System or the Police Officers Retirement System, prior to his or her appointment as a Deputy County Executive, and shall not become a member of this System as a result of such appointment.
- (e) Persons receiving a normal or early service retirement allowance from this System, the Fairfax County Uniformed Retirement System, or Fairfax County Police Officers Retirement System are eligible for membership only under the terms and conditions set forth in Section 3-2-43. (20-81-3; 34-81-3; 23-85-3; 36-86-3; 14-87-3; 27-90-3, § 1; 45-93-3; 23-05-3; 26-12-3; 2-16-3.)

Section 3-2-19.1. - Interest rates for purchases for membership service credit.

The Board may at any time and from time to time, establish a new interest rate or rates which shall be applicable to purchases of membership service credit under Subsection (c) of Section 3-2-19. (2-16-3.)

Section 3-2-20. - Cessation of membership.

The membership of any person in the System shall cease:

- (a) If he or she ceases to be an employee for a period of five years, having had less than five years of creditable service on his or her date of separation from the County or School Board; or
- (b) Upon separation and withdrawal of his or her accumulated contributions; or
- (c) If a member, as defined in Section 3-2-19(b)(1), gives the Board written notice of his or her withdrawal from the System; or
- (d) Upon death. (20-81-3; 4-81-3; 2-16-3.)

Division 5. - Service Credit.

Section 3-2-21. - Statement to be filed with Board.

Under such rules and regulations as are adopted by the Board, each member or someone on his or her behalf shall file with the Board in such form as the Board may prescribe, a statement of the facts pertaining to his or her status as a member, which shall include a statement of all service rendered as an employee and such other information as the Board may require. Until such statement is filed, no member or his or her beneficiary shall be eligible to receive any benefits under this Article. (20-81-3; 2-16-3.)

Section 3-2-22. - Year of service.

The Board shall determine by appropriate rules and regulations how much service in any year is the equivalent of a year of service, but in no case shall it allow credit for more than one year of service for all service rendered in any period of 12 consecutive months. (20-81-3; 2-16-3.)

Section 3-2-23. - Membership service credit.

- (a) Each member shall receive membership service credit for periods in which he or she received compensation and was a member of the System, provided that any former member of the System who ceased his or her County or School Board employment and withdrew his or her accumulated member contributions from the System may purchase membership service credit by paying into the System all accumulated contributions that would have been collected from him or her during his or her prior period or periods of membership, plus interest at the rate or rates established by the Board, for the entirety of any period of prior service for which membership service credit is sought; a member may not purchase credit for only a portion of any prior period of service, but may only purchase credit for an entire prior period of service. In the event that a member of either Plan A or Plan B who ceased his or her County or School Board employment and withdrew his or her accumulated member contributions from the System seeks, on or after January 1, 2013, to purchase credit for periods during which he or she received compensation as a member of the System, he or she may only become a member of, and purchase membership service credit in, either Plan C or Plan D, by paying into the System all accumulated contributions which would have been collected from him or her during his or her prior period or periods of membership, plus interest at the rate or rates established by the Board, for the entirety of any period of prior service for which membership service credit is sought; however, notwithstanding the foregoing, a member of any of the four Plans (A, B, C or D) that are part of the System who ceased his or her County or School Board employment, but who left his or her accumulated member contributions in the System, shall, upon his or her return to County or School Board employment, rejoin the Plan to which he or she formerly belonged. Such member may satisfy some or all of the amount due from him or her for the purchase of such service through a rollover from an individual retirement account if the entire amount in that account is attributable to a rollover from the System. Such member may also satisfy some or all of the amount due from him or her for the purchase of such service through a direct trustee-to-trustee transfer from an eligible deferred compensation plan described in Section 457(b) of the Internal Revenue Code maintained by an eligible employer described in Section 457(e)(1)(A), or through a direct trustee-to-trustee transfer from an annuity contract described in Section 403(b) of the Internal Revenue Code.
- (b) Members in service shall also receive membership service credit for periods of service-connected disability retirement from the System.

- (c) Members whose service is terminated to enter into the armed forces of the United States and who subsequently return to service shall be granted membership service credit for the period of their service in the armed forces of the United States to the extent required under federal and state law.
- (d) A member who transfers from a position in the service of the Fairfax County Public Schools (FCPS) in which he or she was a member of the Virginia Retirement System (VRS) and the Educational Employees' Supplemental Retirement System of Fairfax County (ERFC) to a position in the County service shall receive membership service credit for periods that he or she had been employed by FCPS and was a member of VRS and ERFC, if such service shall not be considered in the calculation of any retirement allowance or benefit from VRS or ERFC, and if such member pays into this System all contributions that would have been due from him or her had he or she been a member of this System, plus interest at the rate or rates established by the Board, for each of the years for which membership service credit is sought.
- (e) The Board may at any time, and from time to time, establish a new interest rate or rates which shall be applicable to Subsections (a) and (d) of this Section. Any election to purchase membership service credit under Subsections (a) or (d) of this Section may be made at any time by a member of the System while in service. The Board may enter into agreements with members purchasing membership service credit under the provisions of Subsections (a) and (d) of this Section to pay the member contributions due from them in installments, provided that such members shall not be entitled to such membership service credit until all payments under such agreements have been made.
- (f) (1) Under such rules and regulations as are adopted by the Board, any employee who has been a member of the Virginia Retirement System (VRS) and the Educational Employees' Supplemental Retirement System of Fairfax County (ERFC), the Fairfax County Police Officers Retirement System, or the Fairfax County Uniformed Retirement System, and who withdraws therefrom and becomes a member of this System, may purchase membership service credit for service rendered while a member of such other system by paying into this System all contributions that would have been due from him or her had he or she been a member of this System for each of the years for which membership service credit is sought. (A member may purchase membership service credit for prior service while a member of VRS only for service due to employment by the Fairfax County Public Schools (FCPS).)
- (2) The amount due from a member for such purchase of membership service credit shall be satisfied, to the extent possible, (a) by directing the trustees of the system from which he or she is withdrawing to transfer his or her accumulated member contributions in such system directly to this System, without distribution to such employee, if such transfers are available under such system, or (b) through (i) a rollover from the system from which he or she is withdrawing (if the member would be eligible for a refund from such system), (ii) a rollover from an individual retirement account in which all contributions were derived from a rollover from such system, or (iii) a direct trustee-to-trustee transfer from an eligible deferred compensation plan described in Section 457(b) of the Internal Revenue Code maintained by an eligible employer described in Section 457(e)(1)(A), or through a direct trustee-to-trustee transfer from an annuity contract described in Section 403(b) of the Internal Revenue Code. To the extent that a rollover or direct transfer permitted under this Subsection is insufficient to purchase the necessary membership service credit, other arrangements permitted by the rules and regulations adopted by the Board shall be made for purchasing such membership service credit. (20-81-3; 5-85-3; 27-90-3, § 1; 45-93-3; 36-94-3; 7-00-3; 10-01-3; 8-03-3; 26-12-3; 2-16-3.)

Section 3-2-24. - Prior service credit.

- (a) Prior service credit may be granted to persons who were members of the Fairfax County Supplemental Retirement System on July 1, 1955, or who were employees who previously left service to enter directly into the armed forces of the United States and who were still in the armed forces on or after that date as provided in Subsection (b) of this Section.
- (b) Each member shall receive membership service credit for military leave, provided he or she returns to full employment within 90 days of discharge and such discharge is other than dishonorable. This Subsection shall be applied retroactively to January 1, 2003. (20-81-3; 27-90-3, § 1; 30-09-3; 2-16-3.)

Section 3-2-24.1. - Portability service credit.

(a) Definitions.

- (1) *Accepting plan* shall mean the retirement plan or system which is receiving membership assets from another retirement plan or system in order to permit a current member to purchase portability service credit in the accepting plan through the use of his or her membership contributions in the transferring plan.
  - (2) *Portability service credit* shall mean service credit purchased in an accepting plan by the transfer of membership assets from the transferring plan.
  - (3) *Transferring plan* shall mean the retirement plan or system which is transferring membership assets to an accepting plan to enable a former employee of the transferring plan to purchase portability service credit in the accepting plan through the use of his or her membership contributions in the transferring plan.
- (b) The Board of Supervisors may enter into agreements with the Virginia Retirement System (VRS) or with any political subdivision of the Commonwealth of Virginia to permit any vested member of VRS or any vested member of a retirement plan or system of a political subdivision of the Commonwealth of Virginia to purchase portability service credit in this System; provided, that the Board of Supervisors may only enter into such agreements with political subdivisions of the Commonwealth of Virginia whose retirement plans or systems constitute defined benefit plans, or eligible deferred compensation plans described in Section 457(b) of the Internal Revenue Code maintained by an eligible employer described in Section 457(e)(1)(A).
- (c) The purchase of portability service credit in the System pursuant to this Section may only be made within 18 months of the date when a member commences employment in a position covered by the System, or, for employees who are members of the System on March 24, 2003, within 18 months of this date.
- (d) In order to purchase portability service credit in the System, the member shall be a vested member of the transferring plan and the transferring plan shall be holding member contributions that are subject to transfer. A member desiring to purchase portability service credit shall make written application for the purchase of such credit to the System. The System shall determine from the transferring plan the amount of the member's assets that would be subject to transfer to the System. Based upon the amount subject to transfer, the Board shall determine the amount of portability service credit that would be actuarially equivalent to the amount of the assets to be transferred to the System; this amount shall represent the maximum amount of portability service credit that can be purchased. The Board shall communicate the amount of portability service credit that can be purchased to the member in writing; however, in no event shall the amount of portability service credit that can be purchased exceed the duration of the member's employment in a position that was covered by the transferring plan. The member shall have 30 days from the date of the letter advising him or her of the amount of portability service credit that can be purchased to determine whether to proceed with the purchase or to withdraw his or her application for the purchase of portability service credit.
- (e) In the event that the assets transferred are not sufficient to purchase portability service credit in the System equivalent to five years of service, the member shall not become vested in the System until his or her creditable service equals five years.
- (f) The purchase of portability service credit in the System shall be accomplished upon the transfer of assets from the transferring plan to the System. Upon the completion of such transfer, the member shall lose all rights to any allowances and benefits from the transferring plan, and shall only be entitled to receive allowances and benefits from the System.
- (g) When a vested member of this System leaves his or her covered employment and enters a position covered by the Virginia Retirement System (VRS) or by a defined benefit retirement plan of a political subdivision of the Commonwealth of Virginia with which the Board of Supervisors has entered into a portability agreement, the former member of this System may purchase portability service credit in VRS or the retirement system of the political subdivision of the Commonwealth for whom he or she shall then work. In order to purchase such portability service credit, the member must make application

in writing to this System, requesting that his or her membership assets be transferred to the accepting plan. The amount of assets subject to transfer shall be an amount equal to the greater of (i) the member's accumulated member contributions with interest thereon, or (ii) an amount representing the present value of the member's accrued benefits with this System. Upon the transfer of membership assets from this System to the accepting plan, the member shall lose all rights to any allowances or benefits from this System based upon the service giving rise to the assets transferred to the accepting plan by this System. Should such a person resume service in a position covered by this System in the future, he or she may purchase service credit for such prior service or purchase portability service credit, if eligible to do so, in accordance with the provisions of this Article at the time he or she again becomes a member of this System. (18-01-3; 8-03-3; 2-16-3.)

Division 6. - Contributions.

Section 3-2-25. - Member contributions.

- (a) There shall be picked up from the compensation of each member for each and every payroll period ending subsequent to December 22, 1984, the contribution payable by such member as provided in this Section; provided, that no contributions shall be required or permitted of any SESRP member. The Board of Supervisors may, from time to time, revise the rates of member contributions to the System.
- (b) Except as provided in Subsection (a) of this Section, all present and future members, otherwise qualified, who, on or before December 31, 1981, and upon approval of the Board, or within 30 days of appointment as employees:
  - (1) Do not agree in writing to the terms set forth in Subsection (b)(2) of this Section and Section 3-2-32(a)(2) shall be considered participants in Plan A and contributions shall be made for each pay period for which he or she received compensation equal to four percent of his or her creditable compensation until his or her annual creditable compensation during the calendar year exceeds the taxable wage base. When such a member's annual creditable compensation during the calendar year exceeds the taxable wage base, contributions shall be made equal to five and one-third percent of his or her creditable compensation.
  - (2) Agree in writing to the terms set forth in this Subsection and Section 3-2-32(a)(2) shall be considered participants in Plan B and contributions shall be made for each pay period for which he or she receives compensation subsequent to the election of Plan B equal to five and one-third percent of his or her creditable compensation.
- (c) Notwithstanding any other provision of this Section, no pick-up shall be made from any member's compensation if the employer's contribution required hereunder is in default.
- (d) The Board may modify the method of collecting the pick-up contributions of members so that the employers, departments, institutions, and agencies required to remit to the Treasurer of the Board as provided in Subsection (b) of this Section may retain the amounts picked up by them with respect to members' salaries and have a corresponding amount deducted from County funds otherwise payable to them.
- (e) The Board may approve written requests to change the offered optional plan selected under Subsection (b) of this Section when such requests are made not later than December 31, 1981.
- (f) All contributions required to be made under Subsections (b) and (c) of this Section with respect to current services rendered by an active member on or after December 22, 1984, shall be picked up by the County, and shall be treated as the employer's contribution in determining tax treatment under Section 414(h)(2) of the Internal Revenue Code. For all other purposes under this Chapter and otherwise, such pick-up contributions shall be treated as contributions made by a member in the same manner and to the same extent as contributions made by a member prior to December 22, 1984. All picked-up amounts shall be included in compensation for purposes of calculating member benefits under Division 8. The County shall pay such picked-up amounts from the same source of funds which is used in paying earnings to the employee. (20-81-3; 34-81-3; 36-83-3; 5-85-3; 2-16-3.)

Section 3-2-26. - Employer contributions.

- (a) Each employer shall contribute at an annual rate to be fixed by the Board of Supervisors.

- (b) The aggregate present value of future employer contributions payable into the retirement allowance account shall be sufficient when combined with the amount then held in the members' contribution account and the retirement allowance account together with the present value of future employee contributions, to provide the estimated prospective benefits payable. The annual employer contribution rate shall be fixed as equal to the employer normal cost plus an expense rate, as long as the System's funding ratio (actuarial value of the System's assets divided by actuarial accrued liability of the System) remains within a corridor, the lower measurement of which is described below and the upper measurement of which is 120 percent. The employer normal cost and System actuarial accrued liability are to be measured using the entry age normal funding method.
- To the extent that the System's funding ratio exceeds 120 percent, a credit shall be established equal to the amount of assets in excess of 120 percent of the actuarial accrued liability.
  - To the extent that the System's funding ratio is lower than the lower measure of the corridor, a charge shall be established equal to the difference between the lower measure plus the actuarial accrued liability and the assets.

The employer contribution shall be adjusted by a 15 year amortization of the credit or charge described in this Subsection, to be paid until the funding ratio re-enters the corridor, at which time it shall cease.

Effective with the fiscal year 2016 County contribution rate, the lower measure of the corridor shall be established at 95 percent. The 95 percent threshold shall be increased until it reaches 100 percent, no later than by the year 2020. Once the lower measurement of the corridor reaches 100 percent, the 15 year amortization described above shall be over a fixed 15 years with additional 15 year amortization layers created annually. Once the System's funding ratio reaches 100 percent, such amortizations shall cease.

In the event of an ordinance change that affects benefits, the employer contribution rate shall be changed effective with the July 1 coincident with or next following the date of adoption of the ordinance change. The employer normal cost component shall be adjusted to the level required by the ordinance change and there shall be an additional component to the employer cost equal to the increase in actuarial accrued liability. Any additional actuarial accrued liability which does not reduce the funding level below 120 percent shall be excluded from this component. (20-81-3; 27-90-3; 16-02-3; 28-15-3, § 1; 2-16-3.)

#### Division 7. - Assets of System.

##### Section 3-2-27. - Assets to be credited to one of two accounts.

All of the assets of the System shall be credited, according to the purpose for which they are held, to one of two accounts, namely, the members' contribution account, and the retirement allowance account. (20-81-3; 2-16-3.)

##### Section 3-2-28. - Members' contribution account.

- (a) The members' contribution account shall be the account to which all members' contributions, pick-up contributions and interest allowances as provided in this Article shall be credited. In the case of any SESRP member, the member's contribution account shall consist of the amount in the Severance Account as defined in the provisions of SESRP effective on January 1, 1996, and the member's accumulated contributions to the System in existence at the time the member elected to participate in the SESRP. After January 1, 1996, the member's contribution account of any SESRP member shall annually be credited with the difference between the SESRP member's creditable compensation and the member's unadjusted compensation. From this account shall be paid the accumulated contributions of a member required to be returned to him or her upon withdrawal or paid in the event of his or her death before retirement.
- (b) Each member's contribution and pick-up contributions provided for in Section 3-2-25 shall be credited to the individual account of that member.
- (c) Each individual account of the members' contribution account shall be credited annually with interest at a rate or rates established by the Board; provided, that interest shall accrue on any such contribution beginning at the end of the calendar year in which each such contribution was made, and further provided that interest shall not be accredited or accumulated to the individual accounts of members who have ceased to be employees for a period of more than five years. The Board may at any time,

and from time to time, establish a new interest rate or rates which shall be applicable under this Section.

- (d) Upon the retirement of a member, his or her accumulated contributions shall be transferred from the members' contribution account to the retirement allowance account.
- (e) Upon receipt of a completed application, the Board shall refund the individual accounts of members who have ceased to be employees after completing fewer than five years of creditable service. The completed application shall include an election by the member directing the System to refund the individual account directly to the member or to directly transfer the account to another plan as permitted under the Internal Revenue Code. (20-81-3; 5-85-3; 27-90-3; 40-08-3; 2-16-3.)

Section 3-2-29. - Retirement allowance account.

- (a) The retirement allowance account shall be the account in which shall be accumulated all employer contributions, amounts transferred from the members' contribution account, and to which all income from the invested assets of the System after all expenses for required services shall be credited. This account shall pay retirement allowances, other benefits payable after a member's retirement, and necessary expenses of the System.
- (b) The amount of interest allowances provided for in Section 3-2-28 shall be transferred each year from the retirement allowance account to the members' contribution account. (20-81-3; 2-16-3.)

Section 3-2-30. - Deposits.

For the purpose of meeting disbursements the Board shall maintain sufficient cash equivalents. (20-81-3; 2-16-3.)

Division 8. - Benefits.

Section 3-2-31. - Service retirement.

- (a) Normal service retirement. Any member, in service at his or her normal retirement date or within 90 days prior thereto, and who has completed five years of creditable service, may retire at his or her normal retirement date or thereafter upon written notice to the Board, made by the member or his or her duly appointed agent, and stating the time the retirement is to become effective. However, such effective date shall be subsequent to the filing of such notice.
- (b) Early service retirement. Any member who has completed 25 years of creditable service and attained the age of 50 years, or any member who has completed at least ten years of creditable service and whose age, when combined with the years of his or her creditable service equals at least the sum of 75 years, may retire pursuant to the procedures set forth in Subsection (a) of this Section. (20-81-3; 14-87-3; 2-16-3.)

Section 3-2-32. - Service retirement allowance and other benefits.

- (a) Normal service retirement.
  - (1) Upon normal service retirement after July 1, 1981, a member participating in either Plan A or Plan C shall receive an annual retirement allowance payable monthly for life consisting of an amount equal to one and eight-tenths percent of his or her average final compensation not in excess of his or her social security breakpoint plus two percent of the average final compensation in excess of his or her social security breakpoint, said sum multiplied by the number of years of creditable service.
  - (2) Upon normal service retirement after July 1, 1981, and after undergoing the additional cost deductions through December 31, 1981, a member participating in either Plan B or Plan D shall receive an annual retirement allowance payable monthly for life consisting of an amount equal to two percent of his or her average final compensation, said amount multiplied by the number of years of creditable service. In the event a participant in Plan B retires before December 31, 1981, the accumulated additional deductions in excess of four percent of pay not in excess of the taxable wage base shall be refunded and the member's retirement allowance shall be determined in accordance with Subsection (a)(1) of this Section.
  - (3) Pre-62 compensating benefit. In addition to the allowance provided in Subsections (a)(1) and (2) of this Section, any member who had retired prior to the age of 62 years and before July 1, 2000,

shall receive except as provided in Subsection (a)(4) of this Section an additional monthly benefit equal to one percent of the average final compensation not in excess of his or her social security breakpoint times years of service until such member attains the age of 62 years.

- (4) Pre-social security benefit. In addition to the allowance provided in Subsections (a)(1) and (2) of this Section, any member who retires on or after July 1, 2000, or any member who had retired prior to the age of 62 years, before July 1, 2000 and who had not attained the age of 62 years as of July 1, 2000, shall receive an additional monthly benefit equal to one percent of the average final compensation not in excess of his or her social security breakpoint times years of service until the first month after such member is entitled to an unreduced social security benefit. Any member who retired on or after July 1, 2000, and before February 26, 2001, and was at least 62 years of age but not yet entitled to an unreduced social security benefit as of the date of his or her retirement, shall receive the pre-social security benefit, without interest, retroactive to the effective date of his or her retirement. However, the pre-social security benefit provided herein shall not be credited to the DROP accounts of members of Plans C or D who elect to participate in the DROP; however, upon the completion of the member's DROP period, the member shall be entitled to receive the pre-social security benefit provided herein if he or she is not then entitled to an unreduced social security benefit until the first month after such member is entitled to an unreduced social security benefit. The term *unreduced social security benefit* shall mean a social security benefit not reduced as a result its receipt before the normal retirement age for receiving social security benefits, as defined by applicable federal statute and regulation.
- (b) Early service retirement. Upon early service retirement, a member shall receive an amount which shall be determined in the same manner as for retirement at his or her normal retirement date under Subsections (a)(1) and (a)(2) of this Section, with years of creditable service and average final compensation being determined as of the date of his or her actual retirement and the amount of the retirement allowance so determined being reduced on an actuarial equivalent basis for the period that the actual retirement date precedes the date the member shall attain the age of 65 years.
- (c) Joint and last survivor option. A member may elect to receive a decreased retirement allowance during his or her lifetime and to have such retirement allowance, or a specified fraction thereof, continue after his or her death to his or her spouse, for his or her spouse's lifetime. Such election may be made or changed at any time up to the member's actual retirement date. After the member's actual retirement date, such election may not be changed except as permitted in Subdivisions (1) and (2) of this Subsection. The amount of any retirement allowance for a spouse provided by this Subsection shall be determined on an actuarial equivalent basis and shall be calculated at the member's actual retirement date using the actuarial adjustment factors in Table 1.
  - (1) In the event a retired member has elected a reduced retirement allowance in consideration of a continued allowance to his or her spouse after the member's death, and the member and such spouse are divorced after the retirement date, the member may discontinue the allowance to the spouse, and the member's retirement allowance may be increased to that amount to which the member would have been entitled had no election been made, if the spouse's right to the allowance has been extinguished pursuant to a final decree of divorce or a final property order entered in connection with a divorce case. The increase in the member's retirement allowance shall take effect as of the date of the final decree of divorce or final property order or July 1, 1988, whichever is later.
  - (2) In the event a retired member has elected a reduced retirement allowance in consideration of a continued allowance to his or her spouse after the member's death, and such spouse predeceases the member, such member's retirement allowance shall be increased to that amount to which the member would have been entitled had no election been made. The increase in the member's retirement allowance shall take effect as of the day following the date of the spouse's death.

TABLE 1



## FAIRFAX COUNTY EMPLOYEES' RETIREMENT SYSTEM

Actuarial Adjustment Factors That Would Apply to Members with a Normal or Early Service Retirement Allowance Determined Under Section 3-2-32 Who Elect a Joint and Last Survivor Option.

Percent of Allowance Continued to Spouse Upon Member's Death	Factor for Equal Ages	Increase/Decrease For Each Full Year Beneficiary is Older (Younger) Than Employee	Maximum Factor
100%	85%	0.7%	96%
75%	89%	0.6%	97%
66.67%	90%	0.5%	98%
50%	92%	0.4%	99%

(d) Minimum benefit.

- (1) In no event shall the annual retirement allowances for a member retiring after December 31, 1970, be less than that determined under the System as in effect prior to such date nor shall any member's annual retirement allowance be less than \$300.00.
- (2) If the retirement allowance of any member who retires during a calendar year beginning on or after January 1, 1979, to December 31, 1981, inclusive, would have been larger if computed as of December 31 of the calendar year preceding the member's retirement, the member shall be entitled to the larger retirement allowance. A member who elects to receive such an allowance shall also be eligible for a refund of his or her contributions accumulated from January 1 of the year of his or her retirement through the date of his or her actual retirement. (20-81-3; 34-81-3; 36-88-3; 11-00-3; 10-01-3; 26-12-3; 50-13-3; 2-16-3.)

Section 3-2-33. - Ordinary disability retirement.

- (a) Any member who is in service or who is within one year of the date that he or she ceased being in service and who has five or more years of creditable service may retire on account of disability, not compensable under the provisions of Section 3-2-35, upon written application to the Board, made by the member or his or her employer, setting forth at what time the retirement is to become effective; provided, that such effective date shall be after the last day of service, but shall not be more than 90 days prior to the execution and filing of such application; and provided further, that the Medical Examining Board, after a medical examination of such member, shall certify that such member is, and has been continuously since such effective date if prior to the filing of the application, mentally or physically incapacitated for further employment by the employer, that such incapacity is likely to continue into the indefinite future, and that such member should be retired.
- (b) Any member who has not been in service for more than a year at the time of application who is otherwise eligible for ordinary disability retirement may be granted an ordinary disability retirement if:
  - (1) Written application is made containing a justification for the failure to apply within one year of ceasing service; and
  - (2) The Board finds:
    - (A) The disability arose in the course of the member's service;
    - (B) The disability was the proximate cause of the member's ceasing to be in service; and
    - (C) There was good cause for the member not to have filed an application while in service or within one year after the date that he or she ceased to be in service.

- (c) In the event that a member is granted an ordinary disability retirement pursuant to Subsection (b) of this Section, the Board shall establish an effective date which considering all the circumstances of the individual case is just; provided, such date shall be no more than 90 days prior to the execution and filing of his or her application. (20-81-3; 34-81-3; 27-90-3, § 1; 2-16-3.)

Section 3-2-34. - Ordinary disability retirement allowance.

Upon ordinary disability retirement, as provided for in Section 3-2-33, a member shall receive an annual retirement allowance, payable monthly during his or her lifetime and continued disability, consisting of an amount equal to two percent of his or her average final compensation multiplied by the number of years of creditable service. However, said retirement allowance shall not be greater than 60 percent of the member's average final compensation or less than \$300.00 per annum. (20-81-3; 2-16-3.)

Section 3-2-35. - Service-connected disability retirement.

- (a) Any member who is in service, or within one year of the date that he or she ceased to be in service may retire on account of disability which is due to injury by accident and/or disease(s) which arose out of and in the course of the member's service; provided, that the Medical Examining Board, after a medical examination of such member shall certify that such member is, and has been continuously since the date such retirement is to be effective, mentally or physically incapacitated for further employment by the employer as a result of such injury by accident and/or disease(s), that such incapacity is likely to continue into the indefinite future, and that such member should be retired. The Board shall determine whether a member is disabled due to injury by accident and/or disease(s) which arose out of and in the course of a member's service. In making this determination, the Board shall consult the decisions of the Virginia Workers' Compensation Commission, the Court of Appeals of Virginia, and the Supreme Court of Virginia which have applied or construed similar language under the Virginia Workers' Compensation Act.
- (b) The member or his or her employer shall submit a written application setting forth at what time the retirement is to become effective; provided, that such effective date shall be after the last day of service but shall not be more than 90 days prior to the date of such application. Prior to submitting such application, the ~~member shall apply for all social security benefits to which he or she may be entitled.~~ The member shall ~~also~~ report his or her injury by accident and/or disease(s) and make a claim for workers' compensation benefits to his or her employer in accordance with the policies and procedures established by the County or the School Board and other authority. He or she shall cooperate in the investigation of his or her workers' compensation claim by the employer or its agent. The member shall submit copies of the dispositions as made of his or her workers' compensation ~~and social security~~ claims and any subsequent awards or other documents reflecting any modification or termination of such benefits. In making its determination of a member's eligibility for retirement under this Section, the Board shall give great weight to the decisions of the Virginia Workers' Compensation Commission, the Court of Appeals of Virginia, and the Supreme Court of Virginia on the compensability of his or her disability under the Virginia Workers' Compensation Act; and the Board may modify its prior determination of eligibility under this Section in light of any such decision within 90 days after the date that such decision becomes final.
- (c) Any member otherwise eligible for ordinary disability retirement under Section 3-2-33, who applies for retirement pursuant to this Section, and whom the Board finds to be disabled but not eligible for retirement under this Section, shall be retired pursuant to Section 3-2-33.
- (d) Any member who has not been in service for over one year at the time of his or her application who is otherwise eligible for service-connected disability retirement under this Section may be granted a service-connected disability retirement under this Section if:
- (1) Written application is made containing a justification for the failure to apply within one year of ceasing to be in service; and
  - (2) The Board finds:
    - (A) The disability arose in the course of the member's service;
    - (B) The disability was the proximate cause of the member's ceasing to be in service; and

- (C) There was good cause for the member not to have filed an application while in service or within one year after the date that he or she ceased to be in service. (20-81-3; 24-85-3; 14-87-3; 27-90-3, §1; 2-16-3.)

Section 3-2-36. - Service-connected disability retirement allowance.

- (a) Upon service-connected disability retirement under Section 3-2-35, a member shall receive an annual retirement allowance, payable monthly and during his or her lifetime and continued disability, consisting of an amount equal to 66 ⅔ percent of his or her average final compensation. However, the allowance shall be reduced by ~~five percent of the amount of any primary social security benefit to which said member is entitled and by~~ the amount of any compensation paid to the member under the Virginia Workers' Compensation Act for temporary total or partial incapacity.
- (b) ~~When the amount of a member's primary social security benefit has once been determined for purpose of applying the five percent reduction described above, the amount of the reduction shall not thereafter be increased on account of cost-of-living increases awarded under social security. However, the~~ amount of the reduction shall be increased by an award of a cost-of-living increase to a member's compensation for temporary total or partial incapacity under the Virginia Workers' Compensation Act (Act). When the member is no longer entitled to receive payments for temporary total or partial incapacity under the Act because of the limits in the Act as to the total amount of such compensation or as to the period of time that the member is entitled to receive such compensation the amount of such payments shall no longer be used to reduce the retirement allowance and, accordingly, subsequent monthly payments of the allowance shall be determined as if the original allowance had been computed without the reduction for such payments.
- (c) If a member receives his or her compensation for temporary total or partial incapacity under the Virginia Workers' Compensation Act (Act) in the form of a lump sum payment, he or she shall receive no monthly retirement allowance otherwise payable under this Section until such time as the amounts he or she would have received equal the amount of his or her lump sum benefit under the Act; provided, neither a lump sum payment or portion thereof representing compensation for permanent total or partial loss or disfigurement under the Act, nor a lump sum payment or portion thereof representing compensation for periods of temporary total or partial incapacity which occurred prior to the effective date of the member's retirement under Section 3-2-35, shall be offset against the member's allowance under this Section; and provided further, that in the event that a member receives a lump sum settlement of benefits that he or she is or may be entitled to in the future under the Act, and said settlement does not specify how much of the lump sum represents settlement of his or her entitlement to temporary total or partial incapacity, as opposed to other benefits, the Board shall determine the portion of such lump sum which in its judgment represents compensation for such benefits. (20-81-3; 4-83-3; 1-93-3; 23-07-3; 47-08-3; 23-11-3; 66-13-3, § 1.; 2-16-3; 36-17-3.)

Section 3-2-37. - Service-connected accidental death benefit.

If death of a member is caused by an accident occurring prior to retirement, and such death is compensable under the Virginia Workers' Compensation Act, there shall be paid, in addition to any other benefits of this Article or other legislation, the following:

- (a) For a member whose death occurs before retirement:
- (1) The member's accumulated contributions as provided in Section 3-2-28(c) to his or her designated beneficiary duly approved, acknowledged, and filed with the Board, otherwise to the member's estate; provided, no benefit is payable under Section 3-2-38 or under Section 3-2-42; and
  - (2) The sum of \$10,000.00 to his or her designated beneficiary duly approved, acknowledged, and filed with the Board, otherwise to the member's estate.
- (b) For a member whose death occurs after retirement:
- (1) The member's accumulated contributions as provided in Section 3-2-28(c) less the amount of any retirement allowances previously received by the member, such sum to be paid to his or her designated beneficiary duly approved, acknowledged and filed with the Board,

otherwise to the member's estate; provided, no benefit is payable under Section 3-2-32(c) or under Section 3-2-38; and

- (2) The sum of \$10,000.00 to his or her designated beneficiary duly approved, acknowledged and filed with the Board, otherwise to the member's estate. (20-81-3; 34-81-3; 5-85-3; 2-16-3.)

Section 3-2-38. - Refund of contributions upon withdrawal or death; deferred vested benefit.

(a) Refund of contributions.

- (1) If a member has ceased to be an employee, otherwise than by death or by retirement under this Article, and has fewer than five years of creditable service on his or her date of separation, he or she shall be eligible for a refund of the total of his or her accumulated contributions (with interest) which have been reduced by the amount of any retirement allowances previously received by him or her under this Article. The member shall file a written application with the Board for such refund, and the application shall include an election by the member directing the System to have the refund paid directly to the member or to transfer the refund amount to another plan identified by the member as permitted under the Internal Revenue Code.
- (2) Should death occur to a member in service who has completed less than 15 years of creditable service or to a member on retirement, the amount of his or her accumulated contributions, reduced by the amount of any retirement allowances previously received by him or her under any of the provisions of this Article, shall then be payable in a lump sum to a designated beneficiary on file with the System, or in the absence of a designated beneficiary, to his or her estate; provided, no benefit is payable under Section 3-2-32(c).
- (3) Should death occur to a member in service who has completed 15 years of creditable service and if the member's designated beneficiary on file with the System, is not the member's spouse, a lump sum payment equaling the amount of the member's accumulated contributions, as provided in Section 3-2-28(c), shall be paid to the designated beneficiary.
- (4) Should death occur to a member in service who has completed 15 years of creditable service and has no designated beneficiary, a lump sum payment equaling the member's contributions shall be paid to the member's estate; provided, that if such member's spouse is the sole person entitled under the laws of the Commonwealth of Virginia to the benefits provided hereunder then said spouse shall have the same right to elect benefits as is provided to spouses in Section 3-2-42.
- (5) All refunds shall be mailed to the last address on record with the Board. Refunds that have not been claimed within six months shall become the property of the System.
- (6) A member who becomes eligible for membership in either the Virginia Retirement System (VRS) and the Educational Employees' Supplemental Retirement System of Fairfax County (ERFC), the Fairfax County Police Officers Retirement System, or the Fairfax County Uniformed Retirement System prior to receipt of any refund amount to which he or she is entitled may elect in writing to transfer the amount of his or her refund directly from this System to the system for which he or she has become eligible for membership, under such rules and regulations as are adopted by the Board and by the board of the system for which he or she has become eligible for membership. In the alternative, to the extent that a refund is an "eligible rollover distribution" within the meaning of Section 402(f)(2)(A) of the Internal Revenue Code, such a member may (a) pursuant to the rules and regulations of the system of which he or she is eligible to become a member, elect in writing to roll over the portion of his or her refund which represents such an eligible rollover distribution directly from this System to the system for which he or she has become eligible for membership or (b) elect in writing to roll over the portion of his or her refund which is such an eligible rollover distribution directly to an individual retirement account.
- (7) Effective on and after January 1, 2007, if a member dies while performing "qualified military service," as defined in Section 414(u) of the Internal Revenue Code, any additional benefits that would have been provided under the System if the member had resumed employment on the day prior to his or her death and then terminated employment due to death shall be paid to such

member's designated beneficiary or, if applicable, estate. This provision shall also apply to Section 3-2-42 regarding spouse retirement allowances.

- (8) In lieu of electing deferred vested benefit pursuant to Subsection (b) of this Section, a member with five or more years of creditable service may elect to receive a refund of his or her accumulated contributions made to the System (with interest) reduced by the amount of any retirement allowances previously received under this Article. The member shall file a written application with the Board on separation, or at any time thereafter, so long as he or she has not yet begun to receive a deferred vested benefit. The application shall include an election by the member directing the System to pay the refund paid directly to the member or to transfer the refund to another plan identified by the member as permitted under the Internal Revenue Code. The refund shall be made not later than 90 days after the receipt of the application.
- (b) Deferred vested benefit. If a member has five or more years of creditable service on his or her date of separation, the member may leave his or her accumulated contributions in the System and receive a deferred vested benefit payable beginning on the date the member attains 65 years of age, or in an actuarially reduced amount payable at the optional early retirement age, in accordance with applicable provisions of this Article. (20-81-3; 34-81-3; 5-85-3; 27-90-3; 45-93-3; 10-01-3; 40-08-3; 01-11-3; 2-16-3.)

Section 3-2-39. - Medical reevaluation of disabled members; penalty for unjustified refusal to accept medical attention, vocational rehabilitation or selective employment, or to submit to medical examination.

- (a) At least once each year during the first five years following the retirement of a member on a disability retirement allowance, and once in every three-year period thereafter, the Board shall require any such member prior to his or her normal retirement date to undergo a medical examination by the Medical Examining Board; provided, that said medical examination requirement shall not be applicable to a member on a disability retirement allowance during the period such member is receiving benefits under the Virginia Workers' Compensation Act. On recommendation of the Medical Examining Board, the Board may waive the medical examination requirement as to any such member. Should such a member refuse to submit to any such medical examination, his or her disability retirement allowance shall be discontinued until his or her withdrawal of such refusal; and should his or her refusal continue for one year, all his or her rights to any further disability retirement allowance shall cease.
- (b) Members who are receiving service-connected disability retirement allowances pursuant to Section 3-2-35, and who are receiving periodic payments from their employers pursuant to the Virginia Workers' Compensation Act (Act) which are required to be offset against the allowances pursuant to Section 3-2-36, shall cooperate with and accept medical examinations, vocational rehabilitation, and selective employment provided by the employer pursuant to the Act. In the event that such a member's periodic payments are suspended by the Virginia Workers' Compensation Commission (Commission) for unjustified refusal to accept medical examinations, vocational rehabilitation, and/or selective employment, the Board may, if in its determination such refusal was unjustified, direct that the allowance pursuant to Section 3-2-36 shall be computed as if the member received the suspended payments; and should such member's unjustified refusal continue for one year, all his or her rights to any future disability retirement allowance shall cease. The Board shall make appropriate adjustment to the member's allowance if the suspension by the Commission is subsequently reversed or modified. Employers shall promptly notify the Board of any suspensions or releases from suspensions affecting members subject to this Subsection. For purposes of this Subsection, an order of the Commission suspending compensation for unjustified refusal creates a rebuttable presumption that the member unjustifiably refused medical examinations, vocational rehabilitation, and/or selective employment. (20-81-3; 36-88-3; 11-98-3; 2-16-3.)

Section 3-2-40. - Reduction of service-connected disability retirement allowance.

- (a) Whenever the Board ascertains that any member receiving a service-connected disability retirement allowance is, prior to his or her normal retirement date, engaged in work paying more than the difference between his or her allowance and the current salary of the position from which he or she retired, the Board shall reduce such allowance to an amount which, together with the amount earned by him or her, equals the amount of the current salary of the position from which he or she retired. A member receiving a service-connected disability retirement allowance shall submit a copy of that

portion of his or her federal income tax return showing the amount of his or her earned income, and he or she shall also be required to submit copies of all W-2 forms (wage statements) provided him or her by his or her employer(s) to the Board by May 30 of each year. Should such member refuse to submit copies of his or her federal income tax return or W-2 forms to the Board, his or her allowance shall be discontinued until his or her withdrawal of such refusal; and should his or her refusal continue for one year, all his or her rights to any further service-connected disability retirement allowance shall cease. The Board shall have the power to reduce the member's service-connected disability allowance to an amount less than that provided in the first sentence of this Subsection, but not less than \$25.00 a month, to recoup the amount of any overpayment from the System to the member on account of the member's earnings in excess of the maximum amount allowed under this Section.

- (b) The Board shall adopt written regulations governing the administration of this Section, providing for, among other things, the notification to the members deemed appropriate, and allowing for late submission of required documentation for good cause shown.
- (c) Should the Medical Examining Board report and certify to the Board at any time that any member receiving a service-connected disability retirement allowance is able to engage in gainful occupation or work paying more than the difference between his or her retirement allowance and the current salary of the position from which he or she retired, and should the Board find that such member shall have refused an offer of employment considered by the Board suitable to his or her capacity, he or she shall not be entitled to any such allowance during the continuance of such refusal, unless in the opinion of the Board such refusal was justified. (20-81-3; 36-88-3; 27-90-3, § 1; 2-16-3.)

Section 3-2-41. - Cessation of disability retirement allowance.

- (a) Should a member receiving a disability retirement allowance return to service at any time prior to his or her normal retirement date, his or her disability retirement allowance shall cease, and he or she shall again become a contributing member. Upon his or her return to service, he or she shall be given membership service credit for all creditable service that he or she had accumulated as of the effective date of his or her disability retirement. In addition, any member returning to service after a period of service-connected disability retirement shall be given membership service credit for the period of his or her service-connected disability retirement.
- (b) When a member returns to service under the circumstances described in Subsection (a) of this Section, any excess accumulated contributions of such member over the disability retirement allowances received by him or her shall be transferred from the retirement allowance account to the member's contribution account.
- (c) Should the Board at any time determine that a member who is receiving an ordinary disability retirement allowance is no longer incapacitated, the Board shall promptly terminate his or her allowance and notify the member in writing at his or her address as shown in the System's records.
  - (1) Such member may appeal the action of the Board under Section ~~3-2-493-2-48~~.
  - (2) Within 30 days of receipt of such notice, or within 30 days of his or her receipt of the Board's denial of his or her appeal of the termination of his or her ordinary disability retirement allowance, if appealed, such member, if eligible, may apply in writing for a normal or early service retirement allowance. Such members shall be deemed to be in service during this 30 day period solely for the purpose of applying for a service retirement and shall not be granted creditable service for this 30 day period. For purposes of determining their eligibility for such retirement and calculating the appropriate retirement allowance, such members shall be credited with all the creditable service that they had as of the effective date of their ordinary disability retirement. The effective date of such member's normal or early service retirement pursuant to this Subsection shall be the effective date of termination of his or her ordinary disability retirement allowance.
- (d) Should the Board at any time determine that a member who is receiving a service-connected disability retirement allowance is (i) no longer incapacitated or (ii) no longer incapacitated due to an injury by accident and/or disease(s) which arose out of and in the course of his or her service, the Board shall promptly terminate his or her service-connected disability retirement allowance and notify the member in writing at his or her address as shown in the System's records.

- (1) If at that time such member has five or more years of creditable service and the Board determines that such member is presently incapacitated from further employment with his or her employer due to injury by an accident and/or disease(s) which did not arise out of and in the course of his or her service and such incapacity is likely to continue indefinitely, the Board shall grant such member an ordinary disability retirement allowance effective as of the date of termination of his or her service-connected disability retirement allowance. For purposes of determining their eligibility for such retirement and calculating the appropriate retirement allowance, such members shall be credited with all the creditable service that they had as of the effective date of their service-connected disability retirement and shall receive membership service credit for the period of their service-connected disability retirement.
- (2) Any member whose service-connected disability retirement allowance has been terminated by the Board under this Section may appeal the action of the Board under Section ~~3-2-493-2-48~~.
- (3) Within 30 days of receipt of such notice, or within 30 days of his or her receipt of the Board's denial of his or her appeal of the termination of his or her service-connected disability retirement allowance, if appealed, such member, if eligible, may apply in writing for a normal or early service retirement allowance. Members whose service-connected disability retirement had been changed by the Board to ordinary disability pursuant to Subsection (d)(1) of this Section may apply for a normal or early service retirement allowance in lieu of the ordinary disability retirement allowance. Members shall be deemed to be in service during this 30 day period solely for the purpose of applying for a service retirement and shall not be granted creditable service for this 30 day period. For purposes of determining their eligibility for such retirement and calculating the appropriate retirement allowance, such members shall be credited with all the creditable service that they had as of the effective date of their service-connected disability retirement. The effective date of such member's normal or early service retirement pursuant to this Subsection shall be the effective date of termination of his or her service-connected disability retirement allowance. (20-81-3; 27-90-3, § 1; 6-95-3; 14-98-3; 2-16-3.)

Section 3-2-42. - Spouse retirement allowance.

Should death occur to a member in service who has completed five years of creditable service, a retirement allowance shall be payable to the member's spouse if said spouse is the member's designated beneficiary duly approved, acknowledged and filed with the Board. The annual retirement allowance payable monthly for life shall be 50 percent of the annual retirement allowance provided in Sections 3-2-32(a)(1) or 3-2-32(a)(2), with creditable service and average final compensation being determined as of the date of the member's death. Said spouse shall elect in writing within 180 days of the member's death, or within 90 days of receiving notice from the Board, whichever comes first, to receive the benefits outlined above in this Section or a lump sum payment of the member's contributions, plus interest as provided in Section 3-2-28(c); in the event no election is made, said spouse shall receive benefits in the form of a lump sum. If a death is due to a service-connected accident as defined in Section 3-2-37 and the designated beneficiary under Section 3-2-37(a)(1) and (a)(2) is the member's spouse, the spouse shall elect in writing within 180 days of the member's death, or within 90 days of receiving notice from the Board, whichever comes first, to receive either the benefits contained in this Section or those contained in Section 3-2-37(a)(1). In the event of the spouse's death prior to receiving allowances under this Section equaling the sum of the member's contributions to the System, plus interest, said sum, reduced by the amount of any retirement allowances previously paid under this Section, shall be paid to the spouse's designated beneficiary duly approved, acknowledged and filed with the Board, otherwise to the spouse's estate. (20-81-3; 5-85-3; 20-87-3; 29-09-3; 2-16-3.)

Section 3-2-43. - Cessation of normal or early service retirement allowance.

- (a) Subsection (b) of this Section shall apply to persons who are receiving a normal or early service retirement allowance from this System, the Fairfax County Uniformed Retirement System, or the Fairfax County Police Officers Retirement System and who submitted their application for such allowance to the Board of such system on or before July 21, 1986. Subsection (c) of this Section shall apply to persons who are receiving a normal or early service retirement allowance from this System, the Uniformed Retirement System, or the Police Officers Retirement System and who submitted their application for such allowance to the Board of such system after July 21, 1986. Personnel Regulation Section 9-2-4 shall apply to persons covered by either Subsection (b) or (c) of this Section.

- (b) Should a person receiving a normal or early service retirement allowance from this System, the Fairfax County Uniformed Retirement System, or the Fairfax County Police Officers Retirement System (retiree) return to regular service in a permanent position in any office or employment paid directly or indirectly by the County, he or she shall elect to receive such retirement allowance under one of the following two options:
- (1) Such allowance shall not commence or, if already commenced, shall cease while the retiree is so employed. His or her allowance shall commence or resume upon application or reapplication by the retiree after he or she has ceased permanent employment in such a position. The allowance of a retiree of this System who is appointed to a position covered by the Uniformed Retirement System or Police Officers Retirement System shall commence or resume at that cost-of-living adjustment amount pursuant to Section 3-2-44 which would have been payable had the retiree continued to receive his or her allowance without interruption. A retiree who elects in writing at the time of reappointment to a position covered by this Article not to become a member shall be exempted from this System. A retiree who elects in writing at the time of reappointment to a position covered by this Article to become a member shall be eligible:
    - (A) For recomputation of his or her allowance to take into account compensation and creditable service attributable to the period of reemployment resulting in a deferral or cessation of his or her allowance under this Subsection;
    - (B) To make a new election for any optional benefit to which he or she is entitled; and
    - (C) For a retirement allowance for a service-connected disability arising out of and in the course of his or her reemployment.

A retiree of the Uniformed Retirement System or Police Officers Retirement System who is appointed to a position covered by this Article and elects in writing within 30 days of such appointment may be excluded from membership in this System.

- (2) Such allowance shall commence or shall not cease while the retiree is so employed. A retiree electing this option shall be excluded from membership in this System or any system covering the position, service in which results in the application of this Subsection.
- (c) A person receiving a normal or early service retirement allowance from this System, the Fairfax County Uniformed Retirement System, or the Fairfax County Police Officers Retirement System (retiree) may return to employment for which compensation is paid directly or indirectly by the County, subject to the following conditions:
- (1) A retiree shall not receive in combined compensation and retirement allowance, computed monthly, any more than 115 percent of the then current maximum monthly salary for a Deputy County Executive in the County's Compensation Plan. The appropriate Retirement System Board of Trustees shall reduce the retiree's allowance as necessary to keep the combined salary and allowance at this limit. For purposes of this Subsection, a retiree's allowance shall be deemed to be the allowance that he or she would receive if he or she had not elected a joint and last survivor option which results in an actuarially reduced allowance. Employers under all three systems shall report salaries paid to retirees to the retiree's Board of Trustees.
  - (2) A retiree who is employed in a position service in which would otherwise make him or her eligible for membership in this System, the Uniformed Retirement System, or the Police Officers Retirement System, shall not be eligible for membership in that system.
- (d) Notwithstanding any other provision of this Article or any other Article of this Chapter, a person receiving a normal or early service retirement allowance from this System, the Fairfax County Uniformed Retirement System, or the Fairfax County Police Officers Retirement System (retiree) may be employed in a position under his or her former appointing authority subject to the following terms and conditions:
- (1) If the retiree is a member of this System and service in the position to which he or she is to be re-appointed ordinarily would result in membership in this System, his or her normal or early service retirement allowance shall be suspended for the duration of his or her new employment.



During his or her new employment, he or she shall make member contributions to this System. At the time of his or her new employment, he or she shall be entitled to make all elections available to new members of this System, and if otherwise eligible, during his or her employment, he or she may apply for ordinary or service-connected disability retirement. In such case, his or her combined years of service and his or her average final compensation based on his or her new employment shall be used in calculating the disability retirement allowance. On re-application for service retirement from his or her new employment, the retiree shall receive as his or her service retirement allowance the higher of (i) his or her initial service retirement allowance increased by any cost-of-living increases that were granted by the Board to service retirements during the period of his or her new employment or (ii) a service retirement allowance calculated on the basis of his or her combined years of creditable service in his or her initial and new employment and his or her average final compensation calculated on the basis of the creditable compensation that he or she received during both his or her initial and new employment as if there had been no break in service.

- (2) A retiree who is a member of this System and who is to be re-appointed to a position service in which would result in membership in either the Fairfax County Uniformed Retirement System or the Fairfax County Police Officers Retirement System but for his or her membership in this System, shall be subject to the provisions of either Subsection (a) or (b) of this Section, whichever is applicable.
- (3) If the retiree is a member of either the Uniformed Retirement System or Police Officers Retirement System and service in the position to which he or she is to be appointed would result in membership in this System but for his or her membership in the other system, the retiree shall be subject to the provisions of either Subsection (b) or (c) of this Section, whichever is applicable.
- (4) This Subsection shall apply to all persons appointed to positions on or after March 1, 1990, service in which would ordinarily make them members of this System, the Uniformed Retirement System, or the Police Officers Retirement System. (20-81-3; 35-81-3; 36-86-3; 27-90-3, § 1; 10-01-3; 11-05-3; 2-16-3.)

Section 3-2-44. - Cost-of-living adjustments.

Monthly retirement allowances shall be adjusted effective July 1, 1981, and each July 1 thereafter in order to reflect changes in the cost of living since the date of the benefit commencement; provided, that such adjustments shall not affect the amount of the social security benefit allowance payable pursuant to Section 3-2-32(a)(3) or Section 3-2-32(a)(4); and, provided further, that allowances for service-connected disability retirement shall be subject to Subsection (d) of this Section. The monthly benefit allowance to be effective July 1 of any such year shall be the benefit in effect immediately prior to such adjustment increased for the basic cost-of-living increase provided for in Subsection (a) of this Section and the supplemental cost-of-living increase, if any, provided for in Subsection (b) of this Section with such increase reduced as provided in Subsection (c) of this Section in the event the monthly retirement allowance has been in pay status for less than 12 months.

- (a) The basic cost-of-living increase shall be the lesser of four percent and the percentage corresponding to the percentage increase in the Consumer Price Index during the 12 calendar month period ending with the March immediately preceding the July in which the increase is effective. For the purpose of this Section, Consumer Price Index shall mean the Consumer Price Index for all Urban Consumers (CPI-U) as issued by the Bureau of Labor Statistics of the U.S. Department of Labor for the appropriate Standard Metropolitan Statistical Area (SMSA) that includes the County.
- (b) As part of each annual actuarial valuation, the actuary shall determine the percentage supplemental cost-of-living increase (not greater than one percent that can be provided on the following July 1 based upon the available actuarial surplus). The Board then may, but shall not be required to, increase the benefits of all retirement allowances in pay status on each July 1 by such actuarially determined percentage. For the purpose of this Section, available actuarial surplus shall mean the excess of the actuarial value of the assets of the System over the actuarial accrued liabilities of the System as disclosed in the annual actuarial valuation of the System.

- (c) In the event a member has not been in pay status for 12 full months, the basic cost-of-living increase and the supplemental cost-of-living increase shall be determined as the percentage of the full increase determined in Subsections (a) and (b) of this Section as follows:

Number of Complete Months Member Has Been in Pay Status	Percentage of Full Increase
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- Less than 3 ..... 0%
- 3, 4 or 5 ..... 25%
- 6, 7 or 8 ..... 50%
- 9, 10 or 11 ..... 75%

- (d) Cost-of-living adjustments provided by this Section shall be applied to the net amount of the member's service-connected disability retirement allowance after all reductions required by Section 3-2-36 have been made. The member's allowance after the adjustments of cost of living provided by this Section at any date in time shall be determined by retroactive computation from the date of initial retirement, and the application of all applicable cost-of-living adjustments to the net allowance which the member is entitled to under Section 3-2-36.
- (e) The Board of Supervisors reserves the right to amend, terminate or modify the post-retirement increases described in Subsection (b) of this Section. Upon termination, no further increases to benefits shall be due or payable to any member or beneficiary. However, any such amendment, termination or modification shall not reduce the amount of benefits then being paid to any member or beneficiary who received benefits payments as of the date of the amendment, termination or modification. Furthermore, no amendment, termination or modification shall reduce the rights of any member as of June 30, 1981, to increases such member was entitled to based upon the terms of the plan in effect on June 30, 1981. (20-81-3; 27-90-3, § 1; 1-93-3; 11-00-3; 26-10-3; 2-16-3.)

~~Section 3-2-45. -- Social Security benefit proviso.~~

~~If a member does not qualify for or loses primary social security benefits to which he or she is entitled under social security because of his or her failure to make application therefor or because of his or her violation of the Social Security Act, such primary social security benefits shall nevertheless be considered as being received by such member for the purposes of this Article. (20-81-3; 27-90-3, § 1; 2-16-3.)~~

~~Section 3-2-463-2-45.~~ - Retention rights.

Participation in the System does not convey the right to be retained in service or any right or claim to any assets of, or benefit from, the System unless such right has specifically accrued under this Article. (20-81-3; 27-90-3, § 1; 2-16-3.)

~~Section 3-2-473-2-46.~~ - Vesting on termination of System; non-reversion of funds.

Upon termination of the System or upon complete discontinuance of contributions to the System, the rights of all members to benefits accrued to the date of such termination or discontinuance, to the extent then funded, are non-forfeitable. No portion of the assets of the System shall be used for, or diverted to, purposes other than for the exclusive benefit of the members and their beneficiaries prior to the satisfaction of all liabilities with respect to members and their beneficiaries. (20-81-3; 2-16-3.)

~~Section 3-2-483-2-47.~~ - Non-retroactivity to employees retired or terminated prior to July 1, 1981.

With the exception of the benefit adjustment provided under Section 3-2-32(d)(2), the benefits provided by this Article, and Section 3-2-43, shall not apply to members retired or terminated prior to July 1, 1981. Benefits for such members shall be in accordance with the ordinance in effect prior to July 1, 1981. However, retirement allowances determined thereunder shall be subject to the cost-of-living adjustments provided in Section 3-2-44. (20-81-3; 2-16-3.)

Section ~~3-2-493-2-48~~ - Review of adverse decisions.

- (a) Any member adversely affected by a decision of the Board shall receive written notice of said decision and may, within 30 days of receipt of said notice, request in writing a review by the Board of said decision, pursuant to procedures established by the Board.
- (b) Notwithstanding Subsection (a) of this Section, upon written application of a member adversely affected by a decision of the Board and for good cause shown, the Board may reconsider such previous decision. This Subsection is to apply retroactively. (20-81-3; 36-83-3; 2-16-3.)

Section ~~3-2-503-2-49~~ - Transfer to Senior Executive Service Plan.  
Repealed by 01-96-3.

Section ~~3-2-513-2-50~~ - Masculine usage includes the feminine.  
Repealed by 2-16-3.

Section ~~3-2-523-2-51~~ - Limitation on annual retirement allowance.

Notwithstanding any other provision of this Article, the annual retirement allowance to which any member may be entitled shall not exceed the limits on benefits set forth in Section 415(b) of the Internal Revenue Code and any regulations issued by the U.S. Department of the Treasury thereunder, and in calculating such limits a member's compensation shall include any differential wage payments for military service as defined under Section 3401(h)(2) of the Internal Revenue Code and paid on or after January 1, 2009. Notwithstanding any provision of the Internal Revenue Code to the contrary, the limitations imposed by this Section apply only to retirement allowances granted under this Article, and not to any retirement allowance provided to any employee under any other Article of this Chapter. Such limits shall be applied annually for the 12-month period commencing each July 1 and ending the following June 30. A benefit payable other than in the form of an annuity shall not exceed the amount which, when converted to an actuarial equivalent annual benefit, does not exceed the limits on benefits set forth in Section 415(b) of the Internal Revenue Code. Effective June 30, 2000, the mortality tables prescribed by the Uruguay Round Agreement Acts (GATT), as set forth in Internal Revenue Service Revenue Ruling 2001-62 (superseding and modifying Revenue Ruling 95-29), or as further updated or modified by the Internal Revenue Service, shall be used in determining the actuarial equivalent amount of such benefit. (27-90-3, § 2; 10-91-3; 21-96-3; 8-03-3; 01-11-3; 2-16-3.)

Section ~~3-2-533-2-52~~ - Distribution of benefits.

Notwithstanding any other provision of this Article, effective for plan years beginning after December 31, 1986, the entire interest of each member shall be distributed to such member not later than the required beginning date specified below, or shall be distributed, beginning not later than the required beginning date, over the life of such member or over the lives of such member and a beneficiary or over a period not extending beyond the life expectancy of such member or the life expectancy of such member and a beneficiary. For this purpose, the term *required beginning date* shall mean April 1 of the calendar year following the later of the calendar year in which the member attains 70½ years of age, or the calendar year in which the member retires. If a member dies after distribution of the member's interest has begun, the remaining portion, if any, of such interest shall be distributed at least as rapidly as under the method of distribution being used as of the date of death. If a member dies before the distribution of the member's interest has begun, any death benefit shall be distributed within five years after the death of such member, unless (1) any portion of the member's interest is payable to (or for the benefit of) a designated beneficiary, (2) such portion shall be distributed over the life of such beneficiary or over a period not extending beyond the life expectancy of such beneficiary, and (3) if the beneficiary is someone other than the member's surviving spouse, such distributions shall begin not later than one year after the date of the member's death or such later date as the U.S. Secretary of the Treasury may by regulations prescribe. If the beneficiary is the surviving spouse of the member, (1) distribution shall begin on or before the latest of one year after the date of the member's death, such later date as the U.S. Secretary of the Treasury may by regulations prescribe, or the date on which the member would have attained 70½ years of age and (2) if the surviving spouse dies before the distributions to such spouse begin, the distribution rules specified in this Section shall be applied as if the surviving spouse were the member. Distributions from the System shall be made in accordance with the requirements of Section 401(a)(9) Internal Revenue Code, including the rules for incidental death distributions set forth at Section 401(a)(9)(G). (27-90-3, § 2; 26-12-3; 50-13-3; 2-16-3.)

Section ~~3-2-543-2-53~~ - Direct rollovers to other plans.

- (a) General. This Section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the System to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. However, to the extent that any portion of the amount of the rollover is comprised of after-tax contributions, the distribution may only be rolled over to an eligible retirement plan that separately accounts for after-tax contributions.
- (b) Definitions.
- (1) *Eligible rollover distribution* shall mean any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code; and the portion of any distribution that is not includible in gross income.
  - (2) *Eligible retirement plan* shall mean any one of the following that accepts the distributee's eligible rollover distribution: an individual retirement account described in Section 408(a) of the Internal Revenue Code; an individual retirement annuity described in Section 408(b) of the Internal Revenue Code; an annuity plan described in Section 403(a) of the Internal Revenue Code; a qualified trust described in Section 401 (a) of the Internal Revenue Code; an annuity contract described in Section 403(b) of the Internal Revenue Code; an eligible deferred compensation plan described in Section 457(b) of the Internal Revenue Code that is maintained by a state, political subdivision of a state, or an agency or instrumentality of a state; or effective for distributions made after December 31, 2007, a Roth IRA described in Section 408A of the Internal Revenue Code, provided the eligible rollover distribution is considered a "qualified rollover contribution" under Section 408A(e). However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan shall be an individual retirement account or individual retirement annuity.
  - (3) *Distributee* shall mean a member or former member. In addition, the member's or former member's surviving spouse, and the member's or former member's spouse or former spouse who is entitled to receive benefits from the System, shall be distributees with regard to the interest of the spouse or former spouse. Effective for distributions on or after January 1, 2010, a distributee also shall include a non-spouse beneficiary of a deceased member or former member who may make an eligible rollover distribution in a direct trustee-to-trustee transfer to an "inherited" individual retirement account.
  - (4) *Direct rollover* shall mean a payment by the System to the eligible retirement plan specified by the distributee. (45-93-3; 21-96-3; 8-03-3; 01-11-3; 2-16-3)

Section ~~3-2-553-2-54~~ - Additional retirement allowance.

- (a) Definitions.
- (1) *Active member* shall mean a member of the System who is an employee on July 1, 1995, or who becomes an employee thereafter, and whose membership in the System has not ceased at any time from either July 1, 1995, or from when he or she became an employee (whichever is later) until the effective date of his or her subsequent retirement.
  - (2) *Retired member* shall mean a member of the System who is receiving a retirement allowance on July 1, 1995, or whose effective date of retirement is on or before July 1, 1995. A member of the System who is receiving a retirement allowance shall include any member whose effective date of retirement is on or before July 1, 1995.
  - (3) *Retirement allowance* shall mean a normal service retirement allowance, an early service retirement allowance, an ordinary disability retirement allowance, a deferred vested benefit, or a spouse retirement allowance.

- (4) *Base annual retirement allowance* shall mean the initial calculation of a member's or spouse's annual retirement allowance without regard for any deductions for withholding or other benefit elections or adjustments under Section 3-2-7. For a member taking normal service retirement under Section 3-2-31(a), this is the allowance calculated under Section 3-2-32(a)(1) for a member in Plan A or under Section 3-2-32(a)(2) for a member in Plan B; for a member taking early service retirement under Section 3-2-32(b), this is the allowance calculated under Section 3-2-32(b); for a member retired on account of ordinary disability under Section 3-2-33, this is the allowance calculated under Section 3-2-38(b); and for a spouse receiving a spouse retirement allowance, this is the allowance calculated under Section 3-2-42.
  - (5) *Adjusted base annual retirement allowance* shall mean the base annual retirement allowance of a retired member or of the spouse of a member receiving the base spouse annual retirement allowance under Section 3-2-42, as increased by any cost-of-living adjustments applied to the member's or spouse's retirement allowance from the effective date of his or her retirement or election of the spouse retirement allowance through July 1, 1995.
  - (6) *Member in service* shall mean a member of the System.
- (b) The adjusted base annual retirement allowance of each retired member or spouse receiving a retirement allowance on July 1, 1995, shall be increased by three percent, effective July 1, 1995 (modified adjusted base annual retirement allowance). Adjustments to the retired member's or spouse's retirement allowance made under this Article after July 1, 1995, shall be computed on the basis of the modified adjusted base annual retirement allowance.
  - (c) When an active member retires, or the eligible spouse of an active member elects to receive the spouse retirement allowance after July 1, 1995, after his or her base annual retirement allowance has been computed under the applicable Section of this Article, the resulting base annual retirement allowance shall be increased by three percent (initial base annual retirement allowance). Adjustments to the member's or spouse's retirement allowance under this Article after July 1, 1995, shall be computed on the basis of the initial base annual retirement allowance.
  - (d) If a member is entitled to the three percent increase provided for by either Subsection (b) or (c) of this Section, and if at the time he or she is entitled to such increase, he or she is also eligible to receive the pre-62 compensating benefit under Section 3-2-32(a)(3) or the pre-social security benefit under Section 3-2-32(a)(4), his or her pre-62 compensating benefit or pre-social security benefit shall also be increased by three percent.
  - (e) Separation from service.
    - (1) A member who:
      - (A) Separated from service other than by death or retirement with five or more years of creditable service in the System prior to July 1, 1995, and
      - (B) Has not withdrawn his or her accumulated contributions as of July 1, 1995, and
      - (C) Subsequently applies for and is determined to be eligible for a deferred vested benefit after July 1, 1995, shall have his or her or her deferred vested benefit computed mutatis mutandi in the same manner as an active member under Subsection (c) of this Section.
    - (2) A member in service on or after July 1, 1995, who:
      - (A) Subsequently separates from service other than by death or retirement with five or more years of creditable service in the System, and
      - (B) Does not withdraw his or her or her accumulated contributions, and
      - (C) Subsequently applies for and is determined to be eligible for a deferred vested benefit, shall have his or her deferred vested benefit computed mutatis mutandi in the same manner as an active member under Subsection (c) of this Section.
    - (3) A member in service on or after July 1, 1995, who,

- (A) Subsequently separates from service other than by death or retirement with five or more years of creditable service in the System, and
  - (B) Does not withdraw his or her accumulated contributions, and
  - (C) Thereafter, returns to service and again becomes a member of the System, and
  - (D) Subsequently applies for and is determined to be eligible for a normal service, early service or ordinary disability retirement allowance, or a deferred vested benefit, shall have his or her allowance or deferred vested benefit computed *mutatis mutandi* in the same manner as an active member under Subsection (c) of this Section.
- (4) A member in service on or after July 1, 1995, who
- (A) Thereafter separates from service, and
  - (B) Withdraws his or her accumulated members' contributions, and
  - (C) Subsequently returns to service and again becomes a member of the System, and
  - (D) At that time makes arrangements to purchase credit for all of his or her previous service in the System under this Article, and
  - (E) Thereafter applies for and is determined to be eligible for a normal service, early service or ordinary disability retirement, or for a deferred vested benefit, shall have his or her allowance or deferred vested benefit computed *mutatis mutandi* in the same manner as an active member under Subsection (c) of this Section.
- (f) A member's spouse who is receiving an allowance under the joint and last survivor option provided by Section 3-2-32(c), on July 1, 1995, shall have such allowance increased by three percent, effective July 1, 1995. Adjustments to such allowance under this Article after July 1, 1995, shall be computed on the basis of this increased allowance.
- (g) Notwithstanding the 60 percent of average final compensation limit contained in Section 3-2-34, the initial base annual retirement allowance of an active member who becomes eligible to receive an ordinary disability retirement allowance and who is entitled to the increase provided by Subsection (c) of this Section, may exceed 60 percent, but shall not exceed 61.8 percent of his or her average final compensation.
- (h) Notwithstanding any provision of this Section to the contrary, no adjustment under this Section shall be made which would violate the limitations provided by Section ~~3-2-523-2-51~~ concerning the limitations imposed by Section 415 of the Internal Revenue Code and any U.S. Treasury regulations issued thereunder; provided, that any adjustment under this Section may be made up to those limitations. (12-95-3; 11-00-3; 2-16-3.)

Section ~~3-2-563-2-55~~. - Spousal acknowledgment.

Any application for service or disability retirement allowance under this Article shall include a statement made by the spouse of the member, if any, acknowledging, in the presence of a notary public, that the spouse has read and understands the provisions of this Article concerning allowance and payment options and the allowance and payment options, if any, the member has elected to receive. (12-98-3; 2-16-3.)

Section ~~3-2-573-2-56~~. - Deferred retirement option program.

Effective July 1, 2005, there is hereby established a Deferred Retirement Option Program (DROP) for eligible members of the System. Members of the System in service who are eligible for normal service retirement are eligible to elect to participate in this program.

(a) Definitions.

- (1) *DROP period* shall mean the three-year period immediately following the commencement of the member's participation in the DROP.
- (2) *Eligible member* shall mean any member who has reached, or will reach within 60 days, his or her normal retirement date as defined in Section 3-2-1(n).

(b) Election to participate.

- (1) An eligible member may participate in the DROP only once. An eligible member who desires to participate in the DROP shall file an application with the Fairfax County Retirement Administration Agency not less than 60 days prior to the date of the commencement of the member's participation in the DROP.
- (2) A member's election to participate in the DROP is irrevocable, with the exception that a member who elects to participate in the DROP may revoke that election prior to the commencement of his or her DROP period; once revoked, a member may not then elect to participate in the DROP for a period of at least 12 months from the date of his or her revocation.
- (3) At the time of an eligible member's election to participate in the DROP, he or she shall make an election in writing pursuant to Section 3-2-32(c) as to whether or not to receive a reduced retirement allowance in order to provide a retirement allowance for his or her spouse after the member's death.
- (4) An eligible member who elects to participate in the DROP shall agree to do so for a period of three years.
- (5) Subject to any limitation on the number of accrued sick leave hours that may be converted to creditable service as provided in Section 3-2-1 (a)(2), an eligible member who elects to participate in the DROP shall, at the time of his or her election to participate in the DROP, make an election in writing as to whether he or she wishes to convert all of his or her available accrued sick leave to creditable service or to convert all but 40 hours of his or her accrued sick leave to creditable service. Sick leave that is either carried over or that accrues during the DROP period shall not be converted to creditable service at the conclusion of the DROP period.

(c) Continued employment.

- (1) A participating DROP member shall, upon commencement of his or her DROP period, continue to work for the County or School Board in the position he or she held before the effective date of his or her election to participate in the DROP. Thereafter, the participating DROP member shall perform the services of that position or any other position to which he or she is promoted or transferred.
- (2) A participating DROP member shall continue to accrue annual and sick leave and, if eligible, compensatory time during the DROP period. At the conclusion of the DROP period, the member shall receive the payment for his or her accrued annual and compensatory leave that he or she would have received upon retirement. In no case shall a participating DROP member receive payment for his or her accrued annual and compensatory leave at the commencement of the member's participation in the DROP.
- (3) A participating DROP member shall continue to remain eligible for health and life insurance benefits provided by the County or the School Board to its employees and shall remain eligible to participate in the County's or School Board's deferred compensation plan. The deductions from the salary of a participating DROP member for health and life insurance benefits shall be the same deductions that would have been taken had the participating DROP member been an active County or School Board employee, not the deductions that would be taken from the retirement benefits and allowances of a retiree.
- (4) All County or School Board personnel policies and regulations shall continue to apply to a participating DROP member after the commencement of his or her DROP period. A participating DROP member shall remain eligible for annual merit pay increments and promotions during the DROP period. However, a participating DROP member's salary during his or her DROP period shall not be included in the computation of the member's average final compensation. A participating DROP member shall also be subject to the County's disciplinary policies and regulations.

- (5) If a participating DROP member's continued employment with the County or the School Board is interrupted by military service, there shall be no interruption of the member's participation in the DROP. During the period of the participating DROP member's military service, the member's retirement benefits and allowances shall continue to be paid into the participating member's DROP account until the member's DROP period ends. At the end of the DROP period, the member's DROP account balance shall be paid to the member whether or not he or she has returned to his or her former County or School Board position, and the member shall begin to receive his or her normal retirement benefits.
  - (6) Except as otherwise set forth herein, a participating DROP member's continued service shall be deemed to be normal service retirement and shall not count as creditable service with the System.
  - (7) Upon commencement of a participating DROP member's DROP period, the County or the School Board shall cease to withhold contributions to the System from the participating DROP member's salary.
  - (8) The salary received by a participating DROP member during his or her DROP period shall not be included by the County or the School Board in the base that is used to determine the amount of the County's or the School Board's employer contributions to the System.
- (d) DROP account.
- (1) Upon commencement of the participation of a member of either Plan A or Plan B, whose County or School Board employment commenced by reporting for work before January 1, 2013, in the DROP, the member's service retirement allowance pursuant to Section 3-2-32(a)(1) or (2) and the additional retirement allowance pursuant to Section 3-2-32(a)(3) or (4) shall be paid into the member's DROP account. Upon commencement of the participation of a member of either Plan C or Plan D, whose County or School Board employment commenced by reporting for work on or after January 1, 2013, in the DROP, the member's service retirement allowance pursuant to Section 3-2-32(a)(1) or (2) shall be paid into the member's DROP account; the additional retirement benefits provided for in Section 3-2-32(a)(3) and (4) shall not be credited to the DROP accounts of members of Plans C and D, although members of those Plans shall remain eligible to receive the additional retirement benefits provided for in Section 3-2-32(a) upon the completion of their DROP period, if they then meet the requirements for eligibility for such benefits set forth in Section 3-2-32(a)(3) and (4). The initial amount credited to a member's DROP account shall be computed based on his or her average final compensation as of the date of the commencement of the DROP period.
  - (2) The initial monthly amount shall be increased each July 1 based upon the annual cost-of-living adjustment provided to retirees pursuant to Section 3-2-44. Any other changes that occur during the DROP period that would result in an alteration of the participating DROP member's retirement allowances and benefits if he or she were retired shall also result in adjustments to the monthly amount credited to a participating DROP member's DROP account.
  - (3) The participating DROP member's DROP account shall be credited with interest at an annual rate of five percent, compounded monthly. Interest shall not be pro-rated for any period less than a full month.
  - (4) Contributions by the County or the School Board and the participating DROP member into the System for the participating DROP member shall cease.
  - (5) Amounts credited to a participating DROP member's DROP account shall not constitute annual additions under Section 415 of the Internal Revenue Code.
  - (6) A participating DROP member's DROP account shall not be an account that is separate and distinct from the assets of the System; a participating DROP member's DROP account balance shall remain part of the assets of the System.



- (e) Cessation of County or School Board employment.
- (1) At the conclusion of a participating DROP member's three-year DROP period, the member's County or School Board employment shall automatically cease. The participating DROP member shall then begin to receive normal service retirement allowances and benefits computed based upon his or her average final compensation at the time of the commencement of the DROP period and his or her creditable service at the time of the commencement of the DROP period, plus cost-of-living increases provided to retirees and any other benefit improvements that may have been granted to retirees during the participating DROP member's DROP period. At least 60 days prior to the conclusion of a participating DROP member's DROP period, the member shall make one of the following elections concerning payment of his or her DROP account balance:
    - (A) The member may receive payment of his or her DROP account balance as a lump sum.
    - (B) The member may elect to roll over his or her DROP account balance into a qualified retirement plan, such as an IRA.
    - (C) The member may elect to receive payment of a portion of his or her DROP account balance and roll over the remaining portion into a qualified retirement plan, such as an IRA. If the member elects this method of receiving his or her DROP account balance, he or she must specify, in writing, the specific amount to be paid as a lump sum and the specific amount to be rolled over.
    - (D) The member may elect to use his or her DROP account balance to increase his or her monthly retirement allowances and benefits. The amount of the increase shall be determined based on the actuarial equivalent of the member's DROP account balance.
    - (E) The member may divide his or her DROP account balance in half, and may then elect to use 50 percent of his or her DROP account balance to increase his or her monthly retirement allowances and benefits, and to receive the remainder in any manner listed in Subparagraphs (A), (B) and (C) above. In the event that the participating DROP member does not make the election required by this Subsection, the DROP account balance shall be used to increase his or her monthly retirement allowances and benefits. The amount of the increase shall be determined based on the actuarial equivalent of the member's DROP account balance.
  - (2) A participating DROP member may terminate his or her County or School Board employment at any time, in which case the effective date of the member's termination of his or her County or School Board employment shall be treated as the end of the DROP period for all purposes of this Section.
  - (3) In the event that the employment of a participating DROP member is terminated by the County or the School Board during the DROP period for any reason, the effective date of the member's separation from County service shall be treated as the end of the DROP period for all purposes of this Section.
- (f) Death or disability during DROP period.
- (1) If a participating DROP member dies during the DROP period, the participating DROP member's designated beneficiary on record with the System shall receive payment of the member's DROP account balance and the member's accumulated contributions; if there is no designated beneficiary on record with the System, payment of these amounts shall be made to the participating DROP member's estate. In the event that the participating DROP member has elected a joint and last survivor option pursuant to the terms of Section 3-2-32(c), the participating DROP member's surviving spouse shall receive payment of the participating DROP member's DROP account balance and shall begin to receive retirement allowances and benefits pursuant to the joint and last survivor option election of the participating DROP member.

- (2) If a participating DROP member becomes disabled during the DROP period, the participating DROP member shall receive:
  - (A) In the case that a participating DROP member suffers a disability that would be considered an ordinary disability as defined in Sections 3-2-33 and 3-2-35, the effective date of the member's disability shall be treated as the end of the participating DROP member's DROP period.
  - (B) In the case that a participating DROP member suffers a service-connected disability as set forth in Section 3-2-36, the participating DROP member may elect either (i) to receive the service-connected disability retirement allowances and benefits to which he or she would otherwise be entitled or (ii) to receive the normal service retirement allowances and benefits to which he or she would be entitled plus his or her DROP account balance. An election to receive service-connected disability retirement allowances and benefits shall constitute a waiver of the member's right to receive any amounts credited to his or her DROP account balance.
- (g) Execution of documents and adoption of rules and regulations. The County Executive is authorized to execute all documents necessary or appropriate to operate the DROP including, but not limited to, the establishment of a trust within which the participating DROP members' DROP accounts shall be held and administered. The Board is also authorized to adopt rules and regulations governing the DROP. Any documents executed by the County Executive shall be approved for form by the County Attorney prior to execution. (20-05-3; 40-08-3; 41-08-3; 27-10-3; 26-12-3; 2-16-3.)

Division 9. - Benefit Restoration Plan.

Section ~~3-2-583-2-57~~. - Benefit restoration plan.

- (a) There is hereby established a Benefit Restoration Plan for the System.
- (b) Purpose and intent; rule of construction.
  - (1) In establishing this Benefit Restoration Plan, the Board of Supervisors intends to establish and maintain a "qualified governmental excess benefit arrangement," as defined and authorized by Section 415(m) of the Internal Revenue Code, and as is permitted by Section 51.1-1302 of the *Virginia Code*. The purpose of this Benefit Restoration Plan is to restore, through a non-qualified arrangement, the benefits lost by the application of the limitation on annual benefits under Section 415(b) of the Internal Revenue Code as applicable to governmental plans. This Benefit Restoration Plan shall exist in addition to all other retirement, pension, or other benefits available to participants, including the benefits established by the System.
  - (2) This Section shall be construed to ensure compliance with federal and state law, and any regulations promulgated thereunder, governing such qualified governmental excess benefit arrangements, including, but not limited to Section 415(m) of the Internal Revenue Code, and Sections 51.1-1302, 51.1-1303, and 51.1-1304 of the *Virginia Code*, as in effect at the time of the adoption of this Section and as subsequently amended.
- (c) Definitions.
  - (1) *Administrator* or *Plan Administrator* shall mean the Board, which is responsible for the general administration and operation of the Benefit Restoration Plan and for making effective the provisions of this Section. Under the oversight of the Board, the Executive Director shall be responsible for the day-to-day operation and administration of the Benefit Restoration Plan.
  - (2) *Beneficiary* shall mean the person or persons entitled under this Article to receive any benefits payable after the participant's death.
  - (3) *Benefit Restoration Plan* or *Plan* shall mean the Benefit Restoration Plan for the System established by this Section.
  - (4) *Effective date* shall mean the date of this Section's adoption [June 5, 2006].

- (5) *Eligible member* shall mean a retired member of the System whose benefits thereunder are reduced by the application of the limitations on annual benefits under Section 415(b) of the Internal Revenue Code as applicable to governmental plans.
  - (6) *Enabling statute* shall mean Chapter 13 of Title 51.1 of the *Virginia Code*, as amended.
  - (7) *Grantor trust* shall mean the trust fund described in Subsection (i)(3) of this Section and established and maintained for the Benefit Restoration Plan.
  - (8) *Participant* shall mean an eligible member qualified to participate in the Benefit Restoration Plan.
  - (9) *Plan sponsor* shall mean the Board of Supervisors.
  - (10) *Plan year* shall mean the 12-month period beginning on July 1.
  - (11) *Restoration death benefit* shall mean the benefit due the beneficiary of a participant under the Benefit Restoration Plan as determined under this Section.
  - (12) *Restoration retirement benefit* shall mean the benefit due a participant or his or her beneficiary under the Benefit Restoration Plan determined under this Section.
- (d) Eligibility and participation.
- (1) Eligibility and date of participation. Each eligible member shall be a participant in the Benefit Restoration Plan commencing with the date he or she first becomes, or again becomes, an eligible member.
  - (2) Length of participation. Each eligible member who becomes a participant shall be or remain a participant for so long as he or she is entitled to future benefits under the terms of the Benefit Restoration Plan.
- (e) Restoration retirement benefit. Subject to the terms and conditions set forth in this Section, a participant who retires or is retired under the System and who is entitled to the payment of benefits under the System shall be entitled to a restoration retirement benefit, generally expressed as a benefit payable monthly for the life of the participant and commencing at the applicable time provided under this Article, equal to the excess, if any, of:
- (1) The amount of the participant's retirement allowance under the System, determined without regard to the limitations on contributions and benefits imposed by Section 415 of the Internal Revenue Code, over
  - (2) The amount of the participant's retirement allowance under the System.
- To the extent that the participant's retirement allowance payable under the System is increased at any time due to increases in limitations on contributions and benefits imposed by Section 415 of the Internal Revenue Code, whether by statute, regulation, actions of the U.S. Secretary of the Treasury or his or her delegate or otherwise, the participant's restoration retirement benefit shall be reduced correspondingly.
- (f) Death benefit.
- (1) Death after benefit commencement. If a participant dies after his or her restoration retirement benefit commences to be paid, the only benefits payable under the Benefit Restoration Plan to his or her beneficiary after his or her death shall be those, if any, provided under the form of payment being made to him or her at his or her death.
  - (2) Death before benefit commencement. If a participant dies before his or her restoration retirement benefit commences to be paid, the only benefit payable under the Benefit Restoration Plan with respect to him or her shall be the restoration death benefit, if any, provided in Subsection (f)(3) of this Section.
  - (3) Restoration death benefit. Subject to the terms and conditions set forth herein, if a participant dies on or after the effective date and before his or her restoration retirement benefit commences to be paid, his or her beneficiary shall be entitled to a restoration death benefit as follows:

- (A) If his or her beneficiary is entitled to receive any death benefit under the System, such beneficiary shall be entitled to receive as a restoration death benefit under the Benefit Restoration Plan an amount equal to the excess, if any, of:
  - (i) The amount of such death benefit under the System, determined without regard to the limitations on contributions and benefits imposed by Section 415 of the Internal Revenue Code, over
  - (ii) The actual amount of such death benefit under the System.

To the extent that the participant's accrued benefit or any death benefit payable under the System is increased at any time due to increases in the limitations on contributions and benefits imposed by Section 415 of the Internal Revenue Code, whether by statute, regulation, actions of the U.S. Secretary of the Treasury or his or her delegate or otherwise, the participant's restoration death benefit shall be reduced correspondingly.

- (g) Vesting. A participant's restoration retirement benefit or restoration death benefit, as the case may be, shall be vested at the time of his or her retirement under the System or death, but only to the extent, and determined in the manner, that such participant has a vested and non-forfeitable right to his or her retirement allowance under the System.
- (h) Payment of benefits.
  - (1) Timing and manner for payment of benefits. A participant's restoration retirement benefit, or the restoration death benefit, shall be payable at the same time and in the same manner as the participant's retirement allowance or comparable death benefit (other than his or her accumulated contributions or contribution refund death benefit) is paid under the System, whether as elected by the participant or otherwise payable. For a member who is receiving a retirement allowance under the System on the effective date, and who would immediately be an eligible member upon the effective date, such member shall immediately commence receiving a restoration retirement benefit on a prospective basis.
  - (2) Discretionary use of other methods of payment. In the sole discretion of the Administrator, monthly payment amounts of less than \$100.00, or such amount as the Administrator may from time to time determine, may be paid on an annual or semi-annual basis, in arrears and without interest.
  - (3) Benefit determination and payment procedure. The Administrator shall make all determinations concerning eligibility for benefits under the Benefit Restoration Plan, the time or terms of payment, and the form or manner of payment to the participant (or the participant's beneficiary in the event of the death of the participant). The Administrator shall promptly notify the employer and, where payments are to be made from a grantor trust, the trustee thereof, of each such determination that benefit payments are due and provide to the employer or trustee such other information necessary to allow the employer or trustee to carry out said determination, whereupon the employer or trustee shall pay such benefits in accordance with the Administrator's determination.
  - (4) Payments to minors and incompetents. If a participant or beneficiary entitled to receive any benefits hereunder is a minor or is adjudged to be legally incapable of giving valid receipt and discharge for such benefits, or is deemed so by the Administrator, benefits shall be paid to such person as the Administrator may designate for the benefit of such participant or beneficiary. Such payments shall be considered a payment to such participant or beneficiary and shall, to the extent made, be deemed a complete discharge of any liability for such payments under the Benefit Restoration Plan.
  - (5) Distribution of benefit when distributee cannot be located. The Administrator shall make all reasonable attempts to determine the identity and/or whereabouts of a participant or his or her beneficiary entitled to benefits under the Benefit Restoration Plan, including the mailing by certified mail of a notice to the last known address shown on the employer's or the Administrator's records. If the Administrator is unable to locate such person entitled to benefits hereunder, or if there has been no such claim made for such benefits, the employer shall continue to hold the benefit due such person, subject to any applicable statute of escheats.

- (i) Funding.
  - (1) The undertaking to pay the benefits hereunder shall be unfunded obligations payable solely from the general assets of the employer and subject to the claims of the employer's creditors.
  - (2) Except as provided in a grantor trust established as permitted under Subsection (i)(3) of this Section, nothing contained in the Benefit Restoration Plan and no action taken pursuant to this Section shall create or be construed to create a trust of any kind of a fiduciary relationship between the employer and the participant or his or her beneficiary or any other person or to give any participant or beneficiary any right, title, or interest in any specific asset or assets of the employer. To the extent that any person acquires a right to receive payments from the employer under the Benefit Restoration Plan, such rights shall be no greater than the right of any unsecured general creditor of the employer.
  - (3) Use of grantor trust permitted. Notwithstanding any provision of this Section to the contrary, the Benefit Restoration Plan Sponsor may in its sole discretion elect to establish and fund a grantor trust for the purpose of providing benefits under the Benefit Restoration Plan.
- (j) Plan administrator.
  - (1) The Plan Administrator shall have full and complete authority and discretion to control and manage the operation of and shall decide all matters under the Benefit Restoration Plan pursuant to this Section and the enabling statute. The Administrator shall have any and all powers as may be necessary or advisable to discharge its duties under the Benefit Restoration Plan including the power and authority to interpret the terms of the Benefit Restoration Plan.
  - (2) The Plan Administrator shall be responsible for performing the duties required for the operation of the Benefit Restoration Plan, and shall be responsible for supervising the performance of any other persons who may assist in the performance of the Plan Administrator's responsibilities under this Section and the enabling statute.
  - (3) To enable the Plan Administrator to perform its responsibilities, employer(s) shall promptly provide to the Plan Administrator complete and accurate information on any matter that is required by the Administrator in order to make any decision or determination under the Benefit Restoration Plan. The Plan Administrator shall rely upon this information supplied by the employer, and shall have no duty or responsibility to verify this information.
  - (4) Except as prohibited by law or by this Section, the Plan Administrator may delegate any of its duties to the Executive Director. The Plan Administrator may contract with any person to provide services to assist in the administration of the Benefit Restoration Plan. The Plan Administrator shall make such contracts in compliance with all applicable state and local laws and regulations. Any person other than the Plan Administrator who performs services regarding the Benefit Restoration Plan shall be subject to the supervision and direction of the Plan Administrator and shall not have the authority to control the operation of the Plan.
- (k) Termination and amendment of Benefit Restoration Plan.
  - (1) Termination. The Board of Supervisors hereby reserves the right to terminate this Benefit Restoration Plan at any time; provided, that no such termination shall reduce, suspend, or terminate the restoration retirement benefit or restoration death benefit otherwise payable to a participant or beneficiary hereunder as of the date of such termination.
  - (2) Amendment. The Board of Supervisors hereby reserves the right to amend this Benefit Restoration Plan at any time; provided, that no such amendment shall reduce, suspend, or terminate the restoration retirement benefit or restoration death benefit otherwise payable to a participant or beneficiary hereunder as of the date of such amendment.
- (l) Non-assignability. The interests of each participant hereunder in the Benefit Restoration Plan are not subject to the claims of the participant's creditors; and neither the participant nor his or her beneficiary, shall have any right to sell, assign, transfer, or otherwise convey the right to receive any payments hereunder or any interest under the Benefit Restoration Plan, which payments and interest are expressly declared to be non-assignable and non-transferable. Notwithstanding the foregoing, the

Plan Administrator shall honor any process for a debt to the employer who has employed the participant and any administrative actions pursuant to Section 63.2-1900 et seq. of the *Virginia Code*, or any court process to enforce a child or spousal support obligation, in the manner as described in Section 3-2-6 mutatis mutandi. Restoration retirement benefits and/or restoration death benefits created under this Section which are deemed to be marital property pursuant to Section 20-89.1 et seq. of the *Virginia Code* may be divided or transferred by the court by direct assignment to a spouse or former spouse pursuant to Section 20-107.3 of the *Virginia Code*. Under no circumstances shall a payment under this Subsection take place before the participant's benefit under the System is actually paid. (12-06-3; 2-16-3.)

## ARTICLE 3. - Fairfax County Uniformed Retirement System.

## Division 1. - Generally.

## Section 3-3-1. - Fairfax County Uniformed Retirement System established.

Under the authority of Section 51.1-801 of the *Virginia Code*, there is hereby established a retirement system for employees, to be known as the "Fairfax County Uniformed Retirement System," by and in which name it shall, pursuant to the provisions of this Article, transact all of its business. The Fairfax County Uniformed Retirement System is intended to satisfy the requirements of Sections 401(a) and 414(d) of the Internal Revenue Code for qualified governmental pension plans. (1961 Code, § 9-73; 11-74-9; 28-77-3; 51-13-3; 3-16-3.)

## Section 3-3-2. - Definitions.

Unless provided otherwise in another Section, the following definitions shall apply to this Article:

- (a) *Accrued sick leave credit* shall mean:
  - (1) For employees whose County employment commenced by reporting for work before January 1, 2013 (members of Plans A, B, C, or D), the credit allowed a member with more than five years of service for purposes of determining retirement eligibility. Credit shall be allowed at the rate of one month for every 172 hours of accrued unused sick leave, and pro rata credit shall be allowed for each fraction thereof.
  - (2) For employees whose County employment commenced by reporting for work on or after January 1, 2013 (members of Plan E), the credit allowed a member with more than five (5) years of service for purposes of determining retirement eligibility. Credit shall be allowed at the rate of one month for every 172 hours of accrued unused sick leave, and pro rata credit shall be allowed for each fraction thereof; however, for employees whose County employment commenced by reporting to work on or after January 1, 2013, notwithstanding the amount of the employee's accrued sick leave balance, the maximum amount of accrued sick leave credit that may be used for determining retirement eligibility and for computing the member's retirement allowances and benefits shall be the employee's accrued sick leave balance or 2,080 hours, whichever is less.
- (b) *Accumulated contributions* shall mean the sum of all amounts deducted or picked up from the compensation of a member and credited to his or her individual account in the members' contribution account, any amounts transferred from another retirement plan pursuant to Section 3-3-25.1, together with interest credited on such amounts and any other amounts he or she shall have contributed or transferred thereto as provided in Section 3-3-29(c).
- (c) *Actuarial equivalent* shall mean a benefit of equal value when computed upon the basis of such actuarial tables as are adopted by the Board.
- (d) *Average final compensation* shall mean the average annual creditable compensation of a member during the three consecutive years (78 consecutive pay periods) of creditable service in which such compensation was at its greatest amount, or during the entire period of his or her creditable service if less than three years. In determining creditable compensation, premium payments such as overtime pay shall not be included.
  - (1) In determining average final compensation for members who retire on or after January 1, 1988, the member's accrued unused sick leave at the time of retirement may, at the option of the member, be substituted for an equivalent period of creditable service as if the member had continued to work at his or her final salary during the period of his or her accrued unused sick leave; provided, that in determining the average final compensation for members who became members of the System on or after January 1, 2013 (members of Plan E), no more than 2,080 hours of the member's accrued unused sick leave may be used for this purpose.

- (2) If a member ordered or called to active duty with the armed forces of the United States on or after August 2, 1990, with or without his or her consent, other than for training at the request of the member, is entitled to service credit as a result of such military service pursuant to Section 3-3-25(b) and he or she otherwise would have no creditable compensation attributable to some portion or all of such period of service, his or her average final compensation shall be calculated as if he or she had continued to receive the creditable compensation as defined in this Article and approved and established for his or her position by the County Compensation Plan, including pick-up contributions, during the period of military service for which he or she is receiving service credit. A member shall be entitled to the benefit of the application of this rule for up to a cumulative total of four years of military service commencing on or after August 2, 1990. The Board shall make any and all necessary retroactive adjustments to members' allowances as a result of this rule.
- (3) Notwithstanding the foregoing, whenever the Director of the Department of Human Resources, at the request of the Board, the member, or the member's beneficiary, determines that the member's receipt of a merit increment was delayed as a result of either or both of the amendments to Section 4.3-2 of the Personnel Regulations, effective July 13, 1991, and July 11, 1992, and that the member would otherwise have been entitled to such merit increment under the Personnel Regulations, based upon the Human Resources Director's review of the member's personnel and payroll records, the Board shall calculate the member's average final compensation as if the member had received the merit increment at the time he or she would have but for the aforesaid amendments to Section 4.3-2 of the Personnel Regulations. This rule shall apply to all applications for allowances and benefits filed with the Board on or after July 13, 1991. The Board shall make any necessary retroactive adjustments to allowances and benefits.
- (4) Periods of leave without pay under the federal Family and Medical Leave Act of 1993 (FMLA) shall be disregarded in determining periods of consecutive months or pay periods in calculating average final compensation.
- (e) *Beneficiary* shall mean any person entitled to receive benefits as provided by the System. The Board shall provide a member with a form on which to designate in writing one or more beneficiaries of the member's benefits upon the member's death. The Board shall maintain any such written designation on file. A designated beneficiary may be changed from time to time by written notice by the member filed with the Board.
- (f) *Board* shall mean the Board of Trustees of the System, as provided for in this Article.
- (g) *Creditable compensation* shall mean the full compensation, including pick-up contributions, holiday hours worked, administrative emergency leave worked, shift differential paid and regularly scheduled hours paid, credited at the base rate of pay but excluding premium pay such as all overtime, including Fair Labor Standards Act (FLSA) overtime and excluding performance bonuses. Effective for plan years after December 31, 1988, compensation in excess of \$200,000.00, as indexed under Section 415(d) of the Internal Revenue Code, shall be disregarded. Notwithstanding the foregoing, effective for members whose County employment commenced by reporting for work on or after July 1, 1996, compensation in excess of the limit set forth in Section 401(a)(17) of the Internal Revenue Code shall be disregarded. In determining the compensation of an employee under this definition, the rules of Section 415(c)(3) of the Internal Revenue Code shall apply. Effective for plan years on or after January 1, 2001 an employee's compensation shall include amounts not includible in gross income by reason of Section 132(f)(4) of the Internal Revenue Code.
- (h) *Creditable service* shall mean the sum of membership service credit, plus prior service credit, plus portability service credit purchased pursuant to Section 3-3-25.1, plus accrued sick leave credit.
- (i) *DROP* shall mean the Deferred Retirement Option Program, as provided in Section 3-3-57~~3-3-56~~.



- (j) *Early retirement* shall mean the retirement upon completion of 20 years of service with an actuarial reduction of the normal retirement allowance accrued.
- (k) *Employee* shall mean any person regularly employed within the Fire and Rescue Department, the Sheriff's Department, and the Department of Animal Control, with the exception of clerical personnel in these departments, or as a park police officer or helicopter pilot, rendering service to the County, and any person regularly employed within the Department of Public Safety Communications who transferred into the System pursuant to Section 3-2-19(e) or who was appointed to a position in the classes identified in Section 3-3-20(a)(4) on or after July 1, 2005, whose compensation is fully or partially paid directly or indirectly by the County.
- (l) *Employer* shall mean an authority in the general County having the power to appoint an employee to office or employment paid directly or indirectly by the County and the Board of Trustees of the System.
- (m) *Executive Director* shall mean the Executive Director of the Fairfax County Retirement Administration Agency.
- (n) *Internal Revenue Code* shall mean the federal income tax statutes, as they may be amended or superseded from time to time in the future.
- (p) *Medical Examining Board* shall mean the physician or physicians provided for by Section 3-3-10.
- (q) *Member* shall mean any person included in the membership of the System as provided in Section 3-3-20.
- (r) *Membership service credit* shall mean credit for service rendered while a member of the System, or as otherwise provided in Section 3-3-24.
- (s) *Normal retirement date* shall mean either (1) the member's 55th birthday, provided, said member shall have completed six years of creditable service as a uniformed member of the Fire and Rescue Department, Sheriff's Department, or Department of Animal Control, or as a park police officer, helicopter pilot, or sheriff, or (2) the date the member completes 25 years of creditable service as a uniformed member of the Fire and Rescue Department, Sheriff's Department, or Department of Animal Control, or as a park police officer, helicopter pilot, or sheriff. The normal retirement date for members who are former park police officers who elected to remain in the System pursuant to Section 3-3-20(b)(2) shall be computed in the same manner. Creditable service for these members shall include service both as a park police officer and as a police officer.
- (t) *Pick-up contributions* shall mean a member's regular contribution which is picked up, through a salary reduction, by the County from the member's compensation for service rendered on or after December 22, 1984.
- (u) *Plan A* shall mean the option effective July 1, 1981, available to employees whose County employment commenced by reporting for work on or before March 31, 1997, providing for current members of Plan A to:
  - (1) Contribute four percent of compensation up to the taxable wage base and five and three-fourths percent of compensation in excess of the taxable wage base; and
  - (2) Accrue normal retirement benefits as provided for in Section 3-3-33(a)(1)(A) and (B) or as provided for in Section 3-3-33(a)(2)(A). Further, cost-of-living adjustments shall not be applicable to the allowance until the member reaches age 55 years, at which time the full benefits prescribed in Section 3-3-33 and Section 3-3-45 shall become payable.
- (v) *Plan B* shall mean the provision effective July 1, 1981, allowing current members the option and requiring new members whose County employment commenced by reporting for work on or before March 31, 1997, to:

- (1) Contribute seven and eight-one-hundredths percent of compensation up to the taxable wage base and eight and eighty-three-one-hundredths percent of compensation in excess of the taxable wage base; and
  - (2) Accrue normal retirement benefits as provided for in Section 3-3-33(a)(1)(A), (B), and (C) or as provided for in Section 3-3-33(a)(2)(A) and (B). Cost-of-living adjustments provided for in Section 3-3-45 shall be applied to this amount from the date of retirement. Additionally, 50 percent of the retirement allowance provided in Section 3-3-33(a)(1)(B) shall be payable from the date of retirement. Upon attainment of age 55 years, benefits shall be based on the provisions of Section 3-3-33(a)(1)(A) and (B).
- (w) *Plan C* shall mean the provision effective April 1, 1997, allowing then-existing members of Plan A who elect to transfer to Plan C prior to April 1, 1997, to:
- (1) Contribute four percent of compensation; and
  - (2) Accrue normal retirement benefits as provided for in Section 3-3-33(a)(1)(D) or as provided for in Section 3-3-33(a)(2)(C). Further, cost-of-living adjustments shall not be applicable to the allowance until the member reaches age 55 years, at which time the full benefits prescribed in Sections 3-3-33 and 3-3-45 shall become payable.
- (x) *Plan D* shall mean the provision effective April 1, 1997, allowing then-existing members of Plan B, and requiring new members whose County employment commenced by reporting for work on or after April 1, 1997, but on or before December 31, 2012, to:
- (1) Contribute seven and eight-one-hundredths percent of compensation; and
  - (2) Accrue normal retirement benefits as provided for in Section 3-3-33(a)(1)(D) or as provided for in Section 3-3-33(a)(2)(D). Cost-of-living adjustments provided for in Section 3-3-45 shall be applied to this amount from the date of retirement.
- (y) *Plan E* shall mean the option effective beginning on January 1, 2013, requiring new members whose County employment commenced by reporting for work on or after January 1, 2013, to:
- (1) Contribute seven and eight-one-hundredths percent of compensation; and
  - (2) Accrue normal retirement benefits as provided for in Section 3-3-33(a)(1)(D) or as provided for in Section 3-3-33(a)(2)(D). Cost-of-living adjustments provided for in Section 3-3-45 shall be applied to this amount from the date of retirement.
- (z) *Primary social security benefit* shall mean the primary insurance amount to which the member is entitled, for old age or disability, as the case may be, pursuant to the federal Social Security Act as in effect at his or her date of retirement, under the provisions of this Chapter, except as otherwise specifically provided.
- (aa) *Prior service credit* shall mean credit for service rendered prior to the effective date of this Article [May 6, 1974], or as otherwise provided in Section 3-3-25.
- (bb) *Qualifying employment* shall mean employment that qualifies an employee for participation in the System, and defined specifically to mean regular employment by the Fire and Rescue Department, the Sheriff's Department, and the Department of Animal Control, with the exception of clerical employment in these departments, or as a park police officer or helicopter pilot rendering service to the County, whose compensation is fully or partially paid directly or indirectly by the County.
- (cc) *Retirement allowance* shall mean the retirement payments to which a member is entitled as provided in this Article.
- (dd) *Salary* shall mean the compensation, including pick-up contributions, established for each position as approved in the County Compensation Plan.
- (ee) *Service* shall mean service as an employee for which compensation is paid by the employer, but shall not include time spent on leave without pay.

- (ff) *Social security* shall mean the federal Social Security Act and its programs for old age, survivors and disability insurance and benefits, as applicable.
- (gg) *Social security breakpoint* shall mean the average of the taxable wage base for the 35 calendar years ending with the year in which the member attains social security normal retirement age. In determining a member's social security breakpoint during any particular plan year, it is assumed that the taxable wage in effect at the beginning of the plan year shall remain the same for all future years.
- (hh) *System* shall mean the Fairfax County Uniformed Retirement System. When any part of this Article refers to multiple retirement systems, the Uniformed Retirement System shall be referred to as "this System," rather than "the System."
- (ii) *Taxable wage base* shall mean the maximum amount of wages received during the calendar year on which social security taxes are payable by the member and by the employer, as such amount is defined in Section 3121(a) of the Internal Revenue Code.

(1961 Code, § 9-72; 11-74-9; 28-77-3; 20-81-3; 5-83-3; 22-83-3; 23-85-3; 36-88-3; 29-89-3; 27-90-3, § 3; 43-92-3; 15-93-3; 37-94-3; 21-96-3; 14-00-3; 10-01-3; 18-01-3; 8-03-3; 8-04-3; 36-10-3; 27-12-3; 3-16-3.)

Section 3-3-2.1. - Definitions elsewhere in County Code and in County Personnel Regulations.

Unless this Article provides otherwise, the definitions provided in Sections 1-1-2, 3-3-1, and 3-3-12 of the Code of the County of Fairfax, and Chapter 2 of the Fairfax County Personnel Regulations shall apply herein. (3-16-3.)

Section 3-3-3. - Social Security Breakpoint.

Repealed by 3-16-3.

Section 3-3-4. - Duties of appointing authorities.

The authority having the power to hire the services of a member shall keep such records and from time to time shall furnish such information as the Board may require in the discharge of its duties. Upon employment of a member, the authority shall inform the member of his or her duties and obligations in connection with the System as a condition of employment. (1961 Code, § 9-74; 11-74-9; 3-16-3.)

Section 3-3-5. - Consent to provisions of Article required for employment.

By and upon acceptance of employment, every member shall be deemed to consent and agree to any deductions or employer pick-up of amounts from his or her compensation required by this Article and to all other provisions thereof. (1961 Code, § 9-75; 11-74-9; 5-85-3; 3-16-3.)

Section 3-3-6. - Protection against fraud.

In addition to any other provisions of law, any person who shall knowingly make any false statement or shall falsify or permit to be falsified any record or records of the System in any attempt to defraud the System shall be guilty of a misdemeanor and shall be punished accordingly. (1961 Code, § 9-76; 11-74-9; 3-16-3.)

Section 3-3-7. - Benefits unassignable; non-attachable.

The right of any member to a retirement allowance, the return of accumulated contributions or any other right accrued or accruing to any person under this Article and the money created by this Article shall be unassignable and shall not be subject to execution, garnishment, attachment, the operation of bankruptcy or insolvency laws or any other process of law whatsoever except for administrative actions pursuant to Section 63.2-1900 et seq. of the *Virginia Code*, or any court process to enforce a child or child and spousal support obligation, and shall be unassignable except as specifically provided in this Article. However, retirement benefits and assets created under this Article which are deemed to be marital property pursuant to Section 20-89.1 et seq. of the *Virginia Code*, may be divided or transferred by the court by direct assignment to a spouse or former spouse pursuant to Section 20-107.3 of the *Virginia Code*. (1961 Code, § 9-77; 11-74-9; 3-80-3; 5-85-3; 13-92-3; 1-93-3; 3-16-3.)

Section 3-3-8. - Errors resulting in over- or under-payment.

Should any change or error in the records result in any member or beneficiary receiving from the System more (overpayment) or less than he or she would have been entitled to receive had the records or computation been correct, the Board shall have the power to correct such error and, as far as practicable, to adjust the payments in such a manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled shall be paid. (1961 Code, § 9-78; 11-74-9; 3-16-3.)

Section 3-3-9. - Amendment of Article.

The Board of Supervisors shall have the continuing right and power to amend or supplement this Article at any time, which right and power is hereby expressly reserved. But no amendment shall be made unless an actuarial report has been filed with the Board of Supervisors as to its effect upon the System and no amendment shall be adopted which shall reduce the then accrued benefits of members or beneficiaries below the extent they are then covered by accumulated reserves, which reserves shall constitute a trust fund for the payment of such benefits. (1961 Code, § 9-79; 11-74-9; 3-16-3.)

Section 3-3-10. - Medical Examining Board.

The Medical Examining Board shall consist of the Director of the Health Department (or his or her designee) and, in the discretion of the Board, one or two other physicians designated by the Board. The duties of the Medical Examining Board shall be to arrange for and pass upon all medical examinations required under this Article or requested by the Board and to investigate all essential statements and certificates by or on behalf of a member in connection with an application for disability retirement. The members of the Medical Examining Board, who may act individually or collectively, shall report in writing to the Board their conclusions and recommendations upon all matters referred to it. (1961 Code, § 9-80; 11-74-9; 27-97-3; 3-16-3.)

Section 3-3-10.1. - Post-employment physical examinations.

- (a) Any member or person eligible to participate in the System who applies for service-connected disability retirement or severe service-connected disability retirement on or after July 1, 2004, shall disclose to the Board any and all medical records and information, including, but not limited to any pre-employment or post-employment physical examination, any examination made relating to any claim under the Virginia Workers' Compensation Act and any and all other further tests or examinations required by the Board to assist it in its determination of whether the disability for which the member seeks retirement is service-connected or if it is the result of a preexisting condition.
- (b) Failure to disclose to the Board any medical record or information required hereunder or to undergo any further required tests or examinations shall preclude a member who does not disclose such medical records and information or such other further tests or examinations from receiving service-connected disability retirement as provided for in Section 3-3-36 and from receiving severe service-connected disability retirement as provided for in Section 3-3-37.2. (34-04-3; 3-16-3.)

Division 2. - Board of Trustees.

Section 3-3-11. - Administration of System vested in Board of Trustees.

The general administration and the responsibility for the proper operation of the System and for making effective the provisions of this Article are hereby vested in the Board. (1961 Code, § 9-81; 11-74-9; 3-16-3.)

Section 3-3-12. - Membership; term of office.

- (a) The Board of Trustees of the System shall consist of the following members:
  - Four persons appointed by the Board of Supervisors;
  - Two persons elected by the uniformed employees of the Fire and Rescue Department and the employees of the Department of Public Safety Communications;
  - One person elected by the uniformed employees of the Sheriff's Department and the Department of Animal Control and park police and helicopter pilot members of the System;
  - One person elected by the retirees of the System;
  - Director of the Department of Finance, who shall be the Treasurer of the Board, or his or her permanent designee, sitting ex officio; and

- Director of the Department of Human Resources, or his or her permanent designee, sitting ex officio.
- (b) With the exception of the Director of the Department of Finance and Director of the Department of Human Resources, the terms of office of the trustees shall be four years.
  - (c) The only persons eligible to be elected by the uniformed employees of the Fire and Rescue Department and the employees of the Department of Public Safety Communications as trustees are uniformed employees of the Fire and Rescue Department and employees of the Department of Public Safety Communications. The only persons eligible to be elected as a trustee by the uniformed employees of the Sheriff's Department and the Department of Animal Control and park police and helicopter pilot members of the System are uniformed employees of the Sheriff's Department and the Department of Animal Control and park police and helicopter pilot members of the System. The offices of such trustees shall be vacated should such trustees separate from service prior to the completion of their term.
  - (d) The only persons eligible to be elected as a trustee by the retirees of the System are retirees of the System. (1961 Code, § 9-82; 11-74-9; 20-81-3; 13-92-3; 40-93-3; 36-10-3; 59-13-3; 3-16-3.)

Section 3-3-13. - Vacancies in office.

If a vacancy occurs in the office of a trustee of the System, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled. (1961 Code, § 9-83; 11-74-9; 3-16-3.)

Section 3-3-14. - Compensation of trustees.

The trustees of the System may receive compensation at the rate set by the Board of Supervisors. (1961 Code, § 9-84; 11-74-9; 3-16-3.)

Section 3-3-15. - Accountable to the Board of Supervisors.

The Board of Trustees of the System shall be accountable to the Board of Supervisors. (1961 Code, § 9-85; 11-74-9; 3-16-3.)

Section 3-3-16. - Functions of the Board.

- (a) Subject to the limitations of this Article, the Board shall, from time to time, establish rules and regulations for the administration of the System and for the transaction of its business, copies of which shall be made available to interested parties.
- (b) The Board may employ and pay out of the System funds for all services as shall be required.
- (c) The Board shall keep in convenient form such data as shall be necessary for an actuarial valuation of the System and for checking the experience of the System.
- (d) The Board shall keep minutes of all its proceedings, which shall be open to public inspection unless applicable law provides otherwise.
- (e) The Board shall submit to the Board of Supervisors annually an independent audit showing the fiscal transactions of the System for the preceding fiscal year, the amount of accumulated cash and securities of the System, and the last balance sheet indicating the financial condition of the System.
- (f) At least once in each two-year period, beginning July 1, 1969, the Board shall cause an actuarial evaluation to be made of the System.
- (g) The Board shall review adverse decisions as provided by Section ~~3-3-503-3-49~~. (1961 Code, § 9-86; 11-74-9; 3-16-3.)

Division 3. - Management of Funds.

Section 3-3-17. - Board trustee of funds; investment of same.

- (a) The Board shall be the trustee of funds created by this Article and shall have full power to invest and re-invest such funds. Such investments and re-investments shall be conducted with bona fide discretion and in accordance with the laws of the Commonwealth of Virginia as such laws apply to fiduciaries investing such funds. The Board may, upon the exercise of bona fide discretion, employ investment counsel, who shall be subject to the same limitations herein provided for the Board.

Subject to such limitations, the Board shall have full power to hold, purchase, sell, assign, transfer, or otherwise dispose of any of the securities or investments in which any of the funds created herein have been invested, as well as the proceeds of such investments and any money belonging to such funds.

- (b) No trustee shall be personally liable for losses suffered by the System on investments made under the authority of and in compliance with this Section. (1961 Code, § 9-87; 11-74-9; 3-16-3.)

Section 3-3-18. - Treasurer fiscal officer of the Board.

The Treasurer of the Board shall be the custodian of all of its funds and securities or evidences of such when in the custody of a fiduciary agent. He or she shall give bond, conditioned upon the faithful performance of his or her duties and the proper accounting of all funds and securities coming into his or her hands. He or she shall deposit all money in the name of the Board and disburse the same only on vouchers signed by such person as is designated for the purpose by the Board. (1961 Code, § 9-88; 11-74-9; 3-16-3.)

Section 3-3-19. - Prohibited interest of member or employee of Board.

- (a) The State and Local Government Conflict of Interests Act, Section 2.2-3100 et seq. of the *Virginia Code*, shall apply to members and employees of the Board.
- (b) No member or employee of the Board shall, directly or indirectly, for himself or herself or as an agent in any manner use the funds of the System, except to make such current and necessary payments as are authorized by the Board. (1961 Code, § 9-89; 11-74-9; 3-16-3.)

Division 4. - Membership in System.

Section 3-3-20. - Membership composition.

- (a) Membership shall be composed of the following:
  - (1) Present employees, as hereinafter identified, except those listed in Subsection (2)(B) of this Section:
    - (A) All persons who were employees on the effective date of this Article or who were on leave from service on such date; or
    - (B) Any employee, otherwise qualified, who has been a member of another Fairfax County retirement system, and who has withdrawn therefrom, provided he or she pays into this System all contributions which would have been due from him or her had he or she been a member of this System, plus interest at the rate or rates, as established by the Board, for each of the years for which membership service credit is sought.
  - (2) Future employees, as hereinafter identified, except those listed in Subparagraph (B) of this Subsection:
    - (A) All persons who hereafter shall become employees, persons receiving a normal or early service retirement allowance from this System, the Fairfax County Employees' Retirement System, or Fairfax County Police Officers Retirement System eligible for membership only under the terms and conditions set forth in Section 3-3-43.
    - (B) Employees who are members of the Virginia Retirement System (VRS) and the Educational Employees Supplemental Retirement System of Fairfax County (ERFC), the Employees' Retirement System, or the Police Officers Retirement System, and future employees who are eligible to become members of those systems are not eligible for membership in this System; provided, that an employee who is a member of such a system shall be eligible for membership in this System if he or she elects in writing to withdraw from such system, pursuant to the rules and regulations of this System and of the system of which he or she was previously a member. If the withdrawal from the other system occurs due to being employed in a different position by the same appointing authority, the employee shall be required to purchase service credit under this System for service rendered while a member of such other system, pursuant to the rules of Section 3-3-24. If the withdrawal from the other system occurs due to being employed by a different appointing authority, the employee shall be permitted but not required to purchase service

credit under this System for service rendered while a member of such other system, pursuant to the rules of Section 3-3-24. Elected officials, who elect in writing at the time of their employment not to become members, shall be exempted from this System.

- (3) The membership in this System of uniformed employees of the Department of Animal Control transferred from the Employees' Retirement System to this System pursuant to Section 3-2-19(d) shall commence on October 1, 1985, or date of appointment, whichever is later. For purposes of this Article, such members shall be deemed to have been appointed on or after January 1, 1984, regardless of being granted any membership service credit pursuant to Section 3-3-24. Uniformed employees of the Department of Animal Control, including the Director, appointed on or after October 1, 1985, shall become members of this System upon appointment.
  - (4) The membership in this System of certain employees of the Public Safety Communications Center transferred from the Employees' Retirement System to this System pursuant to Section 3-2-19(e), shall commence on October 1, 2005, or date of appointment, which ever is later. Employees of the Public Safety Communications Center appointed on or after July 1, 2005, in the class specification Public Safety Communications Squad Supervisor, Public Safety Communications Assistant Squad Supervisor, Public Safety Communicator III, Public Safety Communicator II or Public Safety Communicator I, or any successor class specification(s) to these class specifications, shall become members of this System upon appointment.
- (b) Park police transferring to the Fairfax County Police Officers Retirement System.
- (1) Members of this System who were park police and who were reclassified as police officers on January 22, 1983, shall, within 30 days of the adoption of this Subsection [June 20, 1983], make an irrevocable election, in writing, whether to remain members of this System or to transfer to the Fairfax County Police Officers Retirement System.
  - (2) Members of this System who were park police and who were reclassified as police officers on January 22, 1983, who elect to remain as members of this System shall continue as members of this System.
  - (3) Members of this System who were park police and who were reclassified as police officers on January 22, 1983, who elect to transfer to the Police Officers Retirement System shall cease to be members of this System and shall be members of the Police Officers Retirement System as of January 22, 1983.
  - (4) Members who elect to transfer to the Police Officers Retirement System pursuant to Subsection (b)(3) of this Section shall make a further election among the following options at the time of their election under Subsection (b)(1) of this Section:
    - (A) Withdraw the total of his or her accumulated member contributions (with interest) as of January 22, 1983, which shall be reduced by the amount of any retirement allowances previously received by him or her under this Article. Any member contributions to this System after January 22, 1983, shall be transferred to the transferee's member account in the Police Officers Retirement System. Said refund shall be paid to the member not later than 90 days from the date of receipt of the member's election by the Board; or
    - (B) If the member has five or more years of creditable service in this System on January 22, 1983, the member may leave his or her accumulated contributions as of January 22, 1983, in this System and receive a deferred vested benefit commencing on the first of the month coinciding with or following the date the member attains age 55 years, or in an actuarially reduced amount payable at the optional early retirement age, in accordance with applicable provisions of this Article; and any member contribution made to this System after January 22, 1983, shall be transferred to the transferred member's account in the Police Officers Retirement System; or
    - (C) The member may transfer his or her accumulated contributions to the Police Officers Retirement System to obtain prior service credit in that system pursuant to Section 3-7-20(b). In this case, the Board shall transfer the member's accumulated contributions (plus

interest) as well as that portion of the retirement allowance account representing employer contributions to this System attributable to the member's service in this System to the Police Officers Retirement System.

- (5) Members who are required by Subsection (b)(1) of this Section to make an election whether to transfer to the Police Officers Retirement System who fail to do so within the 30 day period provided therein shall be deemed to have elected to continue in this System pursuant to Subsection (b)(1) of this Section.
- (6) Participation in this System of former members who return to qualifying employment shall be determined in accordance with the following terms and conditions:
  - (A) Former members who have not withdrawn their accumulated contributions from this System as provided in Section 3-3-39 shall return to membership in the plan to which they were contributing at the time their former employment ceased.
  - (B) Former members who withdrew their accumulated contributions from this System as provided in Section 3-3-39 subsequent to the cessation of their former employment shall become members of Plan D upon their return to qualifying employment. A former member may purchase membership service credit for the period of his or her prior employment, provided that he or she pays into this System all contributions that would have been due from him or her had he or she been a member of this System during the period of his or her prior employment, plus interest on such contributions at the rate or rates established by the Board, for each of the years for which membership service credit is sought. Any election to purchase membership service credit for periods of prior employment under this Subsection must be made within one year after the former member returns to qualifying employment.
- (c) Members of the System who were deputy sheriffs and who as deputy sheriffs had been performing nursing and/or paramedical duties in the Sheriff's Department and who when reassigned to civilian positions in the Sheriff's Department allocated to one of the classes in the Correctional Health Nurse class series, shall, notwithstanding any other provision in this Chapter to the contrary, remain as members of the System so long as they remain in such positions and for so long as they remain so continuously employed in a position allocated to such classes in the Sheriff's Department or in other positions covered by this Article.
- (d) Notwithstanding any other provision of this Chapter or Article to the contrary, an active member of this System who has more than five years of creditable service in this System and who is appointed to serve as a Deputy County Executive shall remain a member of this System, and shall not become a member of the Fairfax County Employees' Retirement System as a result of such appointment. Any such member shall remain a member of this System for so long as he or she is so employed or subsequently resumes working in a position that is covered under this System. (1961 Code, § 9-90; 11-74-9; 35-81-3; 22-83-3; 23-85-3; 36-86-3; 45-93-3, 10-01-3; 32-02-3; 23-05-3; 27-12-3; 3-16-3.)

Section 3-3-21. - Cessation of membership.

The membership of any person in the System shall cease :

- (a) If he or she ceases to be an employee for a period of five years; or
- (b) Upon separation and withdrawal of his or her accumulated contributions; or
- (c) Upon death. (1961 Code, § 9-91; 11-74-9; 20-81-3; 3-16-3.)

Division 5. - Service Credit.

Section 3-3-22. - Statement to be filed with Board.

Under such rules and regulations as are adopted by the Board, each member or someone on his or her behalf shall file with the Board in such form as the Board may prescribe, a statement of the facts pertaining to his or her status as a member, which shall include a statement of all service rendered as an employee, and such other information as the Board may require. Until such statement is filed, no member or his or her beneficiary shall be eligible to receive any benefits under this Article. (1961 Code, § 9-92; 11-74-9; 3-16-3.)



Section 3-3-23. - Year of service.

The Board shall determine by appropriate rules and regulations how much service in any year is the equivalent of a year of service, but in no case shall it allow credit for more than one year of service for all service rendered in any period of 12 consecutive months. (1961 Code, § 9-93; 11-74-9; 3-16-3.)

Section 3-3-24. - Membership service credit.

- (a) Each member shall receive membership service credit for periods for which he or she received compensation and was a member of the System or after he or she last became a member in the event of a break in his or her membership, provided that any former member of the System who ceased his or her County employment and withdrew his or her accumulated member contributions from the System may purchase membership service credit by paying into the System all accumulated contributions which were collected from him or her during his or her prior period or periods of membership, plus interest at the rate or rates established by the Board, for the entirety of any period of prior service for which membership service credit is sought; a member may not purchase credit for only a portion of any prior period of service, but may only purchase credit for an entire prior period of service. In the event that a member of Plans A, B, C, or D, who ceased his or her County employment and withdrew his or her accumulated member contributions from the System seeks, on or after January 1, 2013, to purchase credit for periods during which he or she received compensation as a member of the System, he or she may only become a member of, and purchase membership service credit in, Plan E, by paying into the System all accumulated contributions which would have been collected from him or her during his or her prior period or periods of membership, plus interest at the rate or rates established by the Board, for the entirety of any period of prior service for which membership service credit is sought; however, notwithstanding the foregoing, a member of any of the five Plans (A, B, C, D or E) that are part of the System who ceased his or her County employment, but who left his or her accumulated member contributions in the System, shall, upon his or her return to County employment, rejoin the Plan to which he or she formerly belonged. Such member may satisfy some or all of the amount due from him or her for the purchase of such service through a rollover from an individual retirement account if the entire amount in that account is attributable to a rollover from the System. Such member may also satisfy some or all of the amount due from him or her for the purchase of such service through a direct trustee-to-trustee transfer from an eligible deferred compensation plan described in Section 457(b) of the Internal Revenue Code maintained by an eligible employer described in Section 457(e)(1)(A), or through a direct trustee-to-trustee transfer from an annuity contract described in Section 403(b) of the Internal Revenue Code.
- (1) Members who are former park police officers who elected to remain in the System under Section 3-3-20(b)(2) shall receive membership service credit for service rendered as a park police officer and for their service as a police officer, including time served as a police officer prior to their election pursuant to Section 3-3-20(b)(2).
- (2) Uniformed employees of the Department of Animal Control who transferred into this System pursuant to Section 3-2-19(d) may purchase membership service credit in this System for service as a uniformed employee of the Department of Animal Control rendered prior to October 1, 1985, by making an election in writing pursuant to Section 3-2-19(d)(3) and paying to the Board the difference between the employee contributions that would have been required under this System plus interest, and their employee contribution plus interest to the Fairfax County Employees' Retirement System for the period for which membership service credit is sought. The Board is authorized to enter into agreements with such members for the payment of the sum in installments, at the same interest rate, applied to the member's contribution account, so long as the entire sum due, plus interest, is paid within one year of the adoption of Section 3-2-19(d) [December 16, 1985].
- (3) With respect to employees of the Public Safety Communications Center who transferred into this System pursuant to Section 3-2-19(e) and who purchase membership service credit in this System pursuant to Section 3-2-19(e)(3) and (5) by paying to the Board the difference between the employee contributions that would have been required under this System plus interest, and their employee contribution plus interest to the Employees' Retirement System, the Board is authorized to enter into agreements with such members for the payment of the sum in

installments, at the same interest rate, to be applied to the member's contribution account, so long as the entire sum due, plus interest, is paid within three years of October 1, 2005.

- (4) Under such rules and regulations as are adopted by the Board, any employee who has been a member of the Virginia Retirement System (VRS) and the Educational Employees Supplemental Retirement System of Fairfax County (ERFC), the Employees' Retirement System, or the Fairfax County Police Officers Retirement System, and who withdraws therefrom may purchase service credit for service rendered while a member of such other system by paying into this System all contributions that would have been due from him or her had he or she been a member of this System, plus interest at the rate or rates, as established by the Board, for each of the years for which membership service credit is sought. (A member may purchase membership service credit for prior service while a member of VRS only for service due to employment by the Fairfax County Public Schools (FCPS).)
- (5) The amount due from a member for such purchase of service credit shall be satisfied, to the extent possible, (a) by directing the trustees of the system from which he or she is withdrawing to transfer his or her accumulated member contributions in such system directly to this System, without distribution to such employee, if such transfers are available under such system, or (b) through (i) a rollover from the system from which he or she is withdrawing (if the member would be eligible for a refund from such system), (ii) a rollover from an individual retirement account in which all contributions were derived from a rollover from a system, (iii) a direct trustee-to-trustee transfer from an annuity described in Section 403(b) of the Internal Revenue Code, or (iv) a direct trustee-to-trustee transfer from an eligible deferred compensation plan described in Section 457(b) of the Internal Revenue Code maintained by an eligible employer described in Section 457(e)(1)(A). To the extent that a rollover or direct transfer permitted under this Subsection is insufficient to purchase the necessary service credit, other arrangements permitted by the rules and regulations adopted by the Board shall be made for purchasing such service credit.
- (b) Members in service shall also receive membership service credit for periods of service-connected disability retirement from the System.
- (c) A member shall also receive membership service credit for any period during which the member is taking leave without pay from the County service and is receiving compensation from the County for temporary total or temporary partial disability under the Virginia Workers' Compensation Act.
- (d) Each member shall receive membership service credit for military leave, provided he or she returns to full employment within 90 days of discharge and such discharge is other than dishonorable. (1961 Code, § 9-94; 11-74-9; 22-83-3; 23-85-3; 45-93-3; 36-94-3; 22-96-3; 10-01-3; 8-03-3; 23-05-3; 27-12-3; 3-16-3.)

Section 3-3-25. - Prior service credit.

The Board shall determine, as soon as practicable after the filing of statements of service, the credit that the member is entitled to receive for prior service. Credit for prior service need not have been continuous provided no break in service exceeded five years. When an employee again becomes a member after his or her prior membership has ceased, he or she shall enter the System as an employee not entitled to prior service credit. Members who have had a break in service shall receive full credit for all past County service; provided, that no credit shall be given for a period of employment prior to a break in service in excess of five years. (1961 Code, § 9-95; 11-74-9; 45-93-3; 30-09-3; 3-16-3.)

Section 3-3-25.1. - Portability service credit.

(a) Definitions.

- (1) *Accepting plan* shall mean the retirement plan or system which is receiving membership assets from another defined benefit retirement plan or system in order to permit a current member to purchase portability service credit in the accepting plan through the use of his or her membership contributions in the transferring plan.
- (2) *Portability service credit* shall mean service credit purchased in an accepting plan by the transfer of membership assets from the transferring plan.

- (3) *Transferring plan* shall mean the retirement plan or system which is transferring membership assets to an accepting plan to enable a former employee of the transferring plan to purchase service in the accepting plan through the use of his or her membership contributions in the transferring plan.
- (b) The Board of Supervisors may enter into agreements with the Virginia Retirement System (VRS) or with any other political subdivision of the Commonwealth of Virginia, provided that the retirement system of any other political subdivision of the Commonwealth of Virginia is a defined benefit plan or eligible deferred compensation plan described in Section 457(b) of the Internal Revenue Code maintained by an eligible employer described in Section 457(e)(1)(A), to permit any vested member of any such plan to purchase portability credit in this System.
- (c) The purchase of portability service credit in the System pursuant to this Section may only be made within 18 months of the date when an employee commences employment in a position covered by the System, or within 18 months of March 23, 2003, for County employees who are members of the System on March 23, 2003.
- (d) In order to purchase portability service credit in the System, the member shall be a vested member of the transferring plan and the transferring plan shall be holding member contributions that are subject to transfer. A member desiring to purchase portability service credit shall make written application for the purchase of such credit to the System. The System shall determine from the transferring plan the amount of the member's assets that would be subject to transfer to the System. Based upon the amount subject to transfer, the Board shall determine the amount of portability service credit that would be actuarially equivalent to the amount of the assets to be transferred to the System; this amount shall represent the maximum amount of portability service credit that can be purchased. The Board shall communicate the amount of portability service credit that can be purchased to the member in writing; however, in no event shall the amount of portability service credit that can be purchased exceed the duration of the member's employment in a position that was covered by the transferring plan. The member shall have 30 days from the date of the letter advising him or her of the amount of portability service credit that can be purchased to determine whether to proceed with the purchase or to withdraw his or her application for the purchase of portability service credit.
- (e) In the event that the assets transferred are not sufficient to purchase portability service credit in the System equivalent to five years of service, the member shall not become vested in the System until his or her creditable service equals five years.
- (f) The purchase of portability service credit in the Virginia Retirement System (VRS) or the retirement system of any political subdivision of the Commonwealth of Virginia that is covered by this Section shall be accomplished upon the transfer of assets from the transferring plan to this System. Upon the completion of such transfer, the member shall lose all rights to any allowances and benefits from the transferring plan, and shall only be entitled to receive allowances and benefits from this System.
- (g) When a vested member of this System leaves his or her covered employment and enters a position covered by the Virginia Retirement System (VRS) or by a defined benefit retirement plan of a political subdivision of the Commonwealth of Virginia with which the Board of Supervisors has entered into a portability agreement, the former member of this System may transfer an amount equal to the greater of (i) his or her accumulated member contributions with interest thereon, or (ii) an amount representing the present value of his or her accrued benefits with this System. In order to accomplish the transfer of assets from this System to an accepting plan, the member must make application in writing to this System. Upon the transfer of membership assets from this to the accepting plan, the member shall lose all rights to any allowances or benefits from this System based upon the service giving rise to the assets transferred to the accepting plan by this System. Should such a person resume service in a position covered by this System in the future, he or she may purchase service credit for such prior service or purchase portability service credit, if eligible to do so, in accordance with the provisions of this Article at the time he or she again becomes a member of this System. (18-01-3; 8-03-3; 3-16-3.)

Division 6. - Contributions.

Section 3-3-26. - Member contributions.

- (a) Each member shall contribute for each pay period for which he or she received compensation the amounts prescribed in this Section. Subsequent to December 22, 1984, the County shall pick up all employee contributions required herein, for all compensation earned on or after December 22, 1984. The Board of Supervisors may, from time to time, revise the rates of member contributions.
- (b) All members of Plan A, who, before April 1, 1997, do not elect in writing to accept the provisions set forth in Subsection (d) of this Section and Section 3-3-33(a)(2)(C) shall be considered as participants in Plan A. Contributions shall be made equal to four percent of such member's creditable compensation per pay period until his or her creditable compensation during the calendar year exceeds the taxable wage base. When such member's annual creditable compensation during the calendar year exceeds the taxable wage base, contributions shall be made equal to five and three-quarters percent of said member's creditable compensation per pay period.
- (c) All members of Plan B, who before April 1, 1997, do not elect in writing to accept the provisions set forth in Subsection (e) of this Section and Section 3-3-33(a)(2)(D) shall be considered participants in Plan B. Contributions shall be made equal to seven and eight-one-hundredths percent of such member's creditable compensation per pay period until his or her creditable compensation during the calendar year exceeds the taxable wage base. When such member's annual creditable compensation during the calendar year exceeds the taxable wage base, contributions shall be made equal to eight and eighty-three-one-hundredths percent of said member's creditable compensation per pay period.
- (d) All members of Plan A, who, before April 1, 1997, elect in writing to accept the provisions of this Section and Section 3-3-33(a)(2)(C), shall be considered participants in Plan C. Contributions shall be made equal to four percent of the member's creditable compensation per pay period.
- (e) All members of Plan B, who, before April 1, 1997, elect in writing to accept the provisions of this Section and Section 3-3-33(a)(2)(D), and all new members who begin employment that qualifies them for participation in the System on or after April 1, 1997, shall be considered participants in Plan D. Contributions shall be made equal to seven and eight-one-hundredths percent of the member's creditable compensation per pay period.
- (f) Notwithstanding any other provision of this Section, no pick-up shall be made from any member's compensation if the employer's contribution required hereunder is in default.
- (g) The Board may modify the method of collecting the pick-up contributions of members so that the employers, departments, institutions, and agencies required to remit to the Treasurer of the Board may retain the amounts picked up by them with respect to members' salaries and have a corresponding amount deducted from County funds otherwise payable to them.
- (h) All contributions required to be made under Subsections (b), (c), (d) and (e) of this Section with respect to current services rendered by an active member on or after December 22, 1984, shall be picked up by the County and shall be treated as the employer's contribution in determining tax treatment under Section 414(h)(2) of the Internal Revenue Code. For all other purposes under this Chapter and otherwise, such pick-up contributions shall be treated as contributions made by a member in the same manner and to the same extent as contributions made by a member prior to December 22, 1984. All picked-up amounts shall be included in compensation for the purpose of calculating benefits under Division 8. The County shall pay such picked-up amounts from the same source of funds which is used in paying earnings to the employee.
- (i) With the exception of the transfers between retirement plans specifically allowed as set forth above, no transfers between any of the Plans of the System shall be permitted. (1961 Code, § 9-96; 11-74-9; 20-81-3; 34-81; 5-85-3; 48-96-3; 3-16-3.)

Section 3-3-27. - Employer contributions.

- (a) Each employer shall contribute at an annual rate to be fixed by the Board of Supervisors.
- (b) The aggregate present value of future employer contributions payable into the retirement allowance account shall be sufficient, when combined with the amount then held in the members' contribution account and the retirement allowance account together with the present value of future employee

contributions, to provide the estimated prospective benefits payable. The annual employer contribution rate shall be fixed as equal to the employer normal cost plus an expense rate, as long as the System's funding ratio (actuarial value of assets divided by actuarial accrued liability) remains within a corridor, the lower measurement of which is described below and the upper measurement of which is 120 percent. The employer normal cost and System actuarial accrued liability are to be measured using the entry age normal funding method.

- To the extent that the System's funding ratio exceeds 120 percent, a credit shall be established equal to the amount of assets in excess of 120 percent of the actuarial accrued liability.
- To the extent that the System's funding ratio is lower than the lower measure of the corridor, a charge shall be established equal to the difference between the lower measure plus the actuarial accrued liability and the assets.

The employer contribution shall be adjusted by a 15 year amortization of the credit or charge described in this Subsection, to be paid until the funding ratio re-enters the corridor at which time it shall cease.

Effective with the fiscal year 2016 County contribution rate, the lower measure of the corridor shall be established at 95 percent. The 95 percent threshold shall be increased until it reaches 100 percent, no later than by the year 2020. Once the lower measurement of the corridor reaches 100 percent, the 15-year amortization described above shall be over a fixed 15 years with additional 15-year amortization layers created annually. Once the System's funding ratio reaches 100 percent, such amortizations shall cease.

In the event of an ordinance change that affects benefits, the employer contribution rate shall be changed effective with the July 1 coincident with or next following the date of adoption of the ordinance change. The employer normal cost component shall be adjusted to the level required by the ordinance change and there shall be an additional component to the employer cost equal to the increase in actuarial accrued liability. Any additional actuarial accrued liability which does not reduce the funding level below 120 percent shall be excluded from this component. (1961 Code, § 9-97; 11-74-9; 23-85-3; 28-89-3; 48-96-3; 10-01-3; 16-02-3; 28-15-3, § 2; 3-16-3.)

Division 7. - Assets of System.

Section 3-3-28. - Assets to be credited to one of two accounts.

All of the assets of the System shall be credited, according to the purpose for which they are held, to one of two accounts, namely, the members' contribution account, and the retirement allowance account. (1961 Code, § 9-98; 11-74-9; 3-16-3.)

Section 3-3-29. - Members' contribution account.

- (a) The members' contribution account shall be the account to which all members' contributions, pick-up contributions and interest allowances as provided in this Article shall be credited. From this account shall be paid the accumulated contributions of a member required to be returned to him or her upon withdrawal or paid in the event of his or her death before retirement.
- (b) Each member's contribution and pick-up contributions provided for in Sections 3-3-26 and 3-3-27 shall be credited to the individual account of that member.
- (c) Each individual account of the members' contribution account shall be credited annually with interest at a rate of not less than two percent per annum on the accumulated contributions of the member; provided, that interest shall accrue on any such contribution beginning at the end of the calendar year in which each such contribution was made, and further provided that interest shall not be accredited or accumulated to the individual accounts of members who have ceased to be employees for a period of more than five years.
- (d) Upon the retirement of a member, his or her accumulated contributions shall be transferred from the members' contribution account to the retirement allowance account. (1961 Code, § 9-99; 11-74-9; 5-85-3; 3-16-3.)

Section 3-3-30. - Retirement allowance account.

- (a) The retirement allowance account shall be the account in which shall be accumulated all employer contributions, amounts transferred from the members' contribution account, and to which all income from the invested assets of the System after all expenses for required services shall be credited. This account shall pay retirement allowances, other benefits payable after a member's retirement, and necessary expenses of the System.
- (b) The amount of interest allowances provided for in Section 3-3-29 shall be transferred each year from the retirement allowance account to the members' contribution account. (1961 Code, § 9-100; 11-74-9; 3-16-3.)

Section 3-3-31. - Deposits.

For the purpose of meeting disbursements for retirement allowances and other payments, there may be kept available cash, not exceeding ten percent of the total amount in the accounts of the System, on deposit in one or more banks or trust companies that are approved as depositories for County funds. (1961 Code, § 9-101; 11-74-9; 3-16-3.)

Division 8. - Benefits.

Section 3-3-32. - Service retirement.

- (a) Normal service retirement. Any member in service who has attained the age of 55 years and has completed six years of creditable service, or has completed 25 years of creditable service may retire at his or her normal retirement date or thereafter upon written notice to the Board made by the member, or his or her duly appointed agent, stating the time the retirement is to become effective. However, such effective date shall be subsequent to his or her last day of service, but not more than 90 days subsequent to the filing of such notice.
- (b) Early service retirement. Any member in service who has completed 20 years of creditable service may retire pursuant to the procedures set forth in Subsection (a) of this Section.
- (c) Compulsory retirement. Repealed; provided, any member in service who previously had reached compulsory retirement age but who had continued in service pursuant to the exemptions previously provided by this Subsection may continue in service without regard to the limitations set forth in this Subsection. (1961 Code, § 9-102, 11-74-9; 28-77-3; 20-81-3; 5-83-3; 22-83-3; 14-87-3; 3-16-3.)

Section 3-3-33. - Service retirement allowance and other benefits.

- (a) Normal service retirement. Upon service retirement after July 1, 1988, a member shall receive an annual retirement allowance, payable monthly as provided below:
  - (1) Effective the first of any month following the member's attainment of age 55 years the annual retirement allowance payable for life shall consist of:
    - (A) For members of Plans A and B, an amount equal to two percent of the average final compensation, multiplied by the number of years of creditable service.
    - (B) In addition to the amount of retirement allowance provided in Subparagraph (A) of this Subsection, members of Plans A and B shall receive an additional amount payable monthly, equal to the primary social security benefit to which such member would be entitled under the provisions of the Social Security Act in effect on the date of the member's retirement if such member were then 65 years of age. Further, such additional retirement allowance shall be reduced by the amount of any social security benefits such member may become eligible to receive, at the earliest date of such eligibility. For purposes of this reduction the amount of social security benefits of a member shall be the amount he or she would have been eligible to receive, without regard to any disqualification resulting from the earned income of the member. The social security benefits, for all employees whose County employment commenced by reporting for work after July 1, 1976, shall be determined on a pro rata basis as ratio of the number of years of creditable service in the County (numerator) and 25 years (denominator). This number is never larger than one.
    - (C) For the members of Plan B, the amount prescribed in Subparagraph (A) of this Subsection shall include cost-of-living adjustments provided for under Section 3-3-45

during the period between the member's retirement and his or her attainment of age 55 years.

- (D) For members of Plans C, D and E, an amount equal to two and five-tenths percent of the member's average final compensation multiplied by the number of years of creditable service.
  - (E) For members of Plans D and E, the amount prescribed in Subparagraph (D) of this Subsection shall include cost-of-living adjustments provided for under Section 3-3-45.
- (2) For members who retire before attaining the age of 55 years, the annual retirement allowance, payable during the period between retirement and the first of the month following such member's 55th birthday, shall be determined as follows:
- (A) Members of Plan A shall receive the amount provided for in Subsection (a)(1)(A) of this Section. Such allowances shall not be subject to cost-of-living adjustments provided for under Section 3-3-45 until the first of the month following the member's 55th birthday. Further, the additional allowance prescribed in Subsection (a)(1)(B) of this Section shall not be included.
  - (B) After undergoing the additional deductions through December 31, 1981, members of Plan B shall receive the amount provided for in Subsection (a)(1)(A) of this Section subject to cost-of-living adjustments under Section 3-3-45 plus 50% of the additional allowance provided for under Subsection (a)(1)(B) of this Section.
  - (C) Members of Plan C shall receive the amount provided for in Subsection (a)(1)(D) of this Section. Such allowances shall not be subject to cost-of-living adjustments provided for under Section 3-3-45 until the first of the month following the member's 55th birthday.
  - (D) Members of Plans D and E shall receive the amount provided for in Subsection (a)(1)(D) of this Section subject to cost-of-living adjustments under Section 3-3-45 as provided in Subsection (a)(1)(E) of this Section.
- (3) In addition to the allowances provided in Subsections (a)(1) and (a)(2) of this Section, for participants in Plans A, B, C, D or E retiring after March 18, 2002, the allowances in Subparagraphs (A) and (B) below, referred to as the pre-social security benefit, shall be payable until the first month after the member attains the age of eligibility for an unreduced social security retirement benefit. The pre-social security benefit shall not be subject to cost-of-living adjustments provided for under Section 3-3-45.
- (A) For members of Plans A and B, an additional amount equal to two-tenths of one percent of average final compensation times years of service.
  - (B) For members of Plan C, D, and E, an additional amount equal to three-tenths of one percent of average final compensation times years of service.
  - (C) The pre-social security benefit provided herein shall not be credited to the DROP accounts of members of Plan E who elect to participate in the DROP; however, upon the completion of the member's DROP period, the member shall be entitled to receive the pre-social security benefit provided herein if he or she is not then entitled to an unreduced social security benefit until the first month after such member is entitled to an unreduced social security benefit.
- (b) Early service retirement. An amount which shall be determined in the same manner as for retirement at the member's normal retirement date with years of creditable service and average final compensation being determined as of the date of his or her actual retirement, and the amount of the retirement allowance so determined being reduced on an actuarial equivalent basis for the period that the actual retirement date precedes the normal retirement date; provided, that for members who retire after July 1, 1988, the amount provided for in Subsection (a)(1)(B) of this Section shall not be reduced on the actuarial equivalent basis.

- (1) The allowance for members of Plans A and C except those exempted under Subsection (b)(2) of this Section shall be reduced in accordance with the factors prescribed in Table 1.
  - (2) The allowance for members of Plans B, D, and E and members of Plans A and C whose age plus creditable service equal 75 shall be reduced in accordance with the factors prescribed in Table 2.
- (c) Joint and last survivor option. Before the normal retirement date, a member may elect to receive a decreased retirement allowance during his or her lifetime and to have such retirement allowance or a specified fraction thereof, continued after his or her death to the spouse, for his or her lifetime. The amount of such retirement allowance shall be determined on an actuarial equivalent basis and shall be calculated at the member's actual retirement date using the actuarial adjustment factors in Table 3. In the event a retired member has elected a reduced retirement allowance in consideration of continued allowance to his or her spouse after the member's death and such spouse predeceases the member, such member's retirement allowance shall be increased to that amount to which the member would have been entitled had no election been made. In the event a retired member who has elected the joint and last survivor option shall be divorced from his or her spouse, and such former spouse waives his or her rights to the benefits of the election of the joint and last survivor option, the retired member may revoke his or her joint and last survivor election; such revocation must be accompanied by a certified copy of a court order or decree containing the waiver of the spouse's rights under the joint and last survivor option election. Upon the provision of the request to revoke the election and the certified copy of a court order or decree containing the waiver of the spouse's rights under the joint and last survivor option election, the Executive Director shall revoke the election and increase the member's retirement allowance to the amount it would have been had no joint and last survivor election ever been made. The effective date of the increase in the member's retirement allowance shall be the first of the month next following the submission of the request to revoke the election accompanied by a certified copy of a court order or decree containing the waiver of the spouse's rights under the joint and last survivor option election.

TABLE 1  
FAIRFAX COUNTY UNIFORMED RETIREMENT SYSTEM

Actuarial Reduction Factors That Would Apply to Members  
With a Normal Retirement Age Requirement of 25 Years of Service  
(or, Attainment of Age 55, if Earlier) if They Are Permitted To  
Retire Early With a Reduced Retirement Allowance After 20 Years of Service

(ASSUMES 4% COST-OF-LIVING ADJUSTMENTS ARE EFFECTIVE  
AT AGE 55 WITHOUT CATCH-UP PROVISION)

Age at Retirement	Years of Service					
	20	21	22	23	24	25
38	65.83	71.56	77.79	84.57	91.94	100.00
39	65.83	71.57	77.80	84.58	91.95	100.00
40	65.85	71.58	77.81	84.59	91.96	100.00
41	65.88	71.60	77.82	84.60	91.97	100.00
42	65.93	71.63	77.84	84.61	91.98	100.00
43	65.99	71.67	77.87	84.63	91.99	100.00
44	66.07	71.73	77.91	84.66	92.00	100.00
45	66.17	71.81	77.97	84.69	92.02	100.00
46	66.29	71.91	78.04	84.73	92.04	100.00



47	66.45	72.03	78.13	84.79	92.07	100.00
48	66.64	72.18	78.24	84.86	92.10	100.00
49	66.86	72.36	78.37	84.95	92.14	100.00
50	67.13	72.57	78.53	85.05	92.19	100.00
51	72.81	72.81	78.71	85.18	93.11	100.00
52	78.92	78.92	78.92	86.29	92.97	100.00
53	85.48	85.48	85.48	85.48	92.41	100.00
54	92.50	92.66	92.66	92.66	92.66	100.00
55	100.00	100.00	100.00	100.00	100.00	100.00

TABLE 2  
FAIRFAX COUNTY UNIFORMED RETIREMENT SYSTEM  
Actuarial Reduction Factors That Would Apply to Members  
With a Normal Retirement Age Requirement of 25 Years of Service  
(or, Attainment of Age 55, if Earlier) if They Are Permitted To  
Retire Early With a Reduced Retirement Allowance After 20 Years of Service  
(ASSUMES 4% COST-OF-LIVING ADJUSTMENTS  
ARE EFFECTIVE AT RETIREMENT)

Age at Retirement	Years of Service					
	20	21	22	23	24	25
38	74.50	79.17	84.06	89.18	94.48	100.00
39	74.18	78.89	83.83	89.01	94.39	100.00
40	73.84	78.61	83.60	88.84	94.30	100.00
41	73.49	78.32	83.37	88.67	94.21	100.00
42	73.11	78.01	83.13	88.50	94.12	100.00
43	72.72	77.68	82.88	88.33	94.03	100.00
44	72.32	77.34	82.61	88.14	93.93	100.00
45	71.89	76.98	82.34	87.95	93.83	100.00
46	71.44	76.61	82.04	87.75	93.73	100.00
47	70.97	76.22	81.74	87.53	93.62	100.00
48	70.48	75.81	81.41	87.31	93.50	100.00
49	69.96	75.38	81.08	87.07	93.38	100.00
50	69.42	74.92	80.72	86.83	93.25	100.00
51	74.45	74.45	80.35	86.57	93.11	100.00
52	79.95	79.95	79.95	86.29	92.97	100.00
53	86.00	86.00	86.00	86.00	92.82	100.00

54	92.66	92.66	92.66	92.66	92.66	100.00
55						

TABLE 3  
FAIRFAX COUNTY UNIFORMED RETIREMENT SYSTEM  
Actuarial Adjustment Factors That Would Apply to Members  
With a Normal or Early Service Retirement Allowance Determined Under Section 3-3-33  
Who Elect a Joint and Last Survivor Option

Percent of Retirement Allowance Continued to Spouse Upon Member's Death	Factor for Equal Ages	Increase/Decrease For Each Full Year Beneficiary is Older (Younger) Than Employee	Maximum Factor
100%	87%	0.7%	96%
75%	90%	0.6%	97%
66.67%	91%	0.5%	98%
50%	93%	0.4%	99%

(1961 Code, § 9-103; 11-74-9; 28-7-3; 20-81-3; 34-81-3; 36-83-3; 36-88-3; 29-89-3; 27-90-3, § 3; 48-96-3; 28-97-3; 13-98-3; 5-00-3; 17-02-3; 27-12-3; 51-13-3; 3-16-3.)

Section 3-3-34. - Ordinary disability retirement.

- (a) Any member in service who has five or more years of creditable service may, at any time before his or her normal retirement date, retire on account of disability, not compensable under the Virginia Workers' Compensation Act, upon written application to the Board, made by the member or his or her appointing authority, setting forth at what time the retirement is to become effective; provided, that such effective date shall be after the last day of service, but shall not be more than 90 days prior to the execution and filing of such application; and provided further, that the Medical Examining Board, after a medical examination of such member, shall certify that such member is, and has been continuously since such effective date if prior to the filing of such application, mentally or physically incapacitated for the further performance of duty, and that such incapacity is likely to be permanent and that such member should be retired.
- (b) Any member not in service at the time of application who is otherwise eligible for ordinary disability retirement may be granted an ordinary disability retirement if:
  - (1) Written application is made within one year of the date he or she ceased to be in service; and
  - (2) The Board finds:
    - (A) The disability arose in the course of the member's service;
    - (B) The disability was the proximate cause of the member's ceasing to be in service; and
    - (C) There was good cause for the employee not to have filed an application while in service.
- (c) In the event a member is granted an ordinary disability retirement pursuant to Subsection (b) of this Section, the Board shall establish an effective date which, considering all the circumstances of the

individual case is just; provided, such date shall be no more than 90 days prior to the execution and filing of his or her application. (1961 Code, § 9-104; 11-74-9; 20-81-3; 48-96-3; 3-16-3.)

Section 3-3-35. - Ordinary disability retirement allowance.

Upon ordinary disability retirement, as provided for in Section 3-3-34, a member shall receive an annual retirement allowance, payable monthly during his or her lifetime and continued disability, consisting of an amount equal to two percent of his or her average final compensation multiplied by the number of years of creditable service. However, said retirement allowance shall not be greater than 60 percent of the member's average final compensation. (1961 Code, § 9-105; 11-74-9; 28-77-3; 20-81-3; 48-96-3; 3-16-3.)

Section 3-3-36. - Service-connected disability retirement.

- (a) Any member in service may, at any time before his or her normal retirement date, retire on account of disability which is due to injury by accident and/or disease(s) which arose out of and in the course of the member's service. The Board shall determine a member is disabled due to injury by accident and/or disease(s) which arose out of and in the course of a member's service. In making this determination, the Board shall consult the decisions of the Virginia Workers' Compensation Commission, the Court of Appeals of Virginia, and the Supreme Court of Virginia which applied or construed language under the Virginia Workers' Compensation Act. Furthermore, in making this determination, the Board shall consider any medical record or information and/or any further tests or examinations required pursuant to Section 3-3-10.1.
- (b) The member or his or her employer shall be required to submit a written application setting forth at what time the retirement is to become effective; provided, that such effective date shall be after the last day of service but shall not be more than 90 days prior to the date of such application. Prior to submitting such application, the member shall be required to apply for ~~all-workers'~~ compensation ~~and social-security benefits~~ to which he or she may be entitled. The member shall ~~also~~ be required to submit to the Board copies of the dispositions as made of his or her workers' compensation ~~and social-security claims~~ and any subsequent awards or other documents reflecting any modification or termination of such benefits. With respect to the determination of a member's eligibility for retirement under this Section, the Board shall give great weight to the decisions of the Virginia Workers' Compensation Commission, the Court of Appeals of Virginia, and the Supreme Court of Virginia on the compensability of his or her disability under the Virginia Workers' Compensation Act; and the Board may modify its prior determination of eligibility under this Section in light of any such decision within 90 days after the date such decision becomes final.
- (c) Any member otherwise eligible for ordinary disability retirement under Section 3-3-34, who applies for retirement pursuant to this Section, and whom the Board finds to be disabled but not eligible for retirement under this Section, shall be retired pursuant to Section 3-3-34.
- (d) Any member who applied for service-connected disability retirement on or before (effective date of amendment [December 16, 1985]) shall have his or her eligibility for such retirement governed by the provisions of this Section in effect on that date. Members applying thereafter shall have their eligibility determined by the provisions of this Section.
- (e) When an application for service-connected disability retirement has been submitted by a member or on his or her behalf by his or her employer, the appointing authority for the agency in which the member is employed shall certify whether or not there exist any vacant positions within the agency the essential physical job functions of which the member could perform, with or without reasonable accommodation; this certification shall be provided to the member and to the Board. The appointing authority shall have a continuing obligation to notify the member and the Board if any such position becomes vacant between the time of the appointing authority's initial certification and the Board's action on the member's retirement application. A member who has applied for service-connected disability retirement who meets the physical requirements for such position, with or without reasonable accommodation, and who can be retrained to fulfill the other requirements for any such position shall be given the option to accept such position and withdraw his or her application for service-connected disability retirement or to decline such position and proceed with his or her application for service-connected disability retirement. A member shall have seven days from the date of the appointing authority's certification that a position is available to make his or her election

as to whether he or she shall accept the position or proceed with his or her retirement application; the failure of the member to make such election shall constitute an election to proceed with his or her application for retirement. In the event that the member elects not to accept a position for which he or she has received notification, the appointing authority shall have no further duty to notify the member and the Board of any further positions that may subsequently become available. In the event that no such positions are vacant or the member elects not to accept a vacant position, the application for service-connected disability retirement shall proceed to a determination by the Board. The certification by an appointing authority that no such positions exist within the member's agency constitutes an application of specific County personnel policies, procedures, rules and regulations. (1961 Code, § 9-106; 11-74-9; 20-81-3; 24-85-3; 48-96-3; 34-04-3; 3-16-3.)

Section 3-3-37. - Service-connected disability retirement allowance.

- (a) Any member who is receiving, or has been approved by the Board to receive, service-connected disability retirement, or who has applied for service-connected disability retirement, or whose employer has submitted as application for service-connected disability retirement for such employee as of December 9, 1996, under Section 3-3-36, shall receive an annual retirement allowance, payable monthly during his or her lifetime and continued disability, consisting of an amount equal to 66  $\frac{2}{3}$  percent of the salary the member received at the time of retirement. This allowance shall be reduced ~~by five percent of the amount of any primary social security benefit to which the member is entitled and~~ by the amount of any compensation awarded under the Virginia Workers' Compensation Act to the member for temporary total or partial incapacity; ~~provided, however, that no reduction shall be made to a member's service-connected disability retirement allowance due to the member's entitlement to social security disability benefits in whole or in part as the result of a disability other than the disability that served as the basis for the award of service-connected disability retirement.~~
- (b) Any member who submits an application for service-connected disability retirement, or for whom his or her employer submits such application under Section 3-3-36 on or after December 9, 1996, shall receive an annual retirement allowance, payable monthly during his or her lifetime and continued disability, consisting of an amount equal to 40 percent of the salary the member received at the time of retirement. However, this allowance shall be reduced ~~by five percent of the amount of any primary social security disability benefit to which the member is entitled and~~ by the amount of any compensation awarded under the Virginia Workers' Compensation Act to the member for temporary total or partial incapacity.
- (c) ~~When the amount of a member's primary social security benefit has once been determined for purposes of applying the five percent reduction described in Subsections (a) and (b) of this Section, the amount of the reduction shall not thereafter be increased on account of cost-of-living increases awarded under social security. However, t~~he amount of the reduction shall be increased by an award of a cost-of-living increase to the member's compensation for temporary total or partial incapacity under the Virginia Workers' Compensation Act (Act). When the member is no longer entitled to receive payments for temporary total or partial incapacity under the Act because of the limits in the Act as to the total amount of such compensation or as to the period of time that the member is entitled to receive such compensation, the amount of such payments shall no longer be used to reduce the retirement allowance and, accordingly, subsequent monthly payments of the allowance shall be determined as if the original allowance had been computed without the reduction for such payments.
- (d) If a member receives his or her compensation for temporary total or partial incapacity under the Virginia Workers' Compensation Act (Act) in the form of a lump sum payment, he or she shall receive no monthly retirement allowance otherwise payable under this Section until such time as the amounts he or she would have received equal the amount of his or her lump sum benefit under the Act; provided, neither a lump sum payment or portion thereof representing compensation for permanent total or partial loss or disfigurement under the Act nor a lump sum payment or portion thereof representing compensation for periods of temporary total or partial incapacity which occurred prior to the effective date of the member's retirement under Section 3-3-36 shall be offset against the member's allowance under this Section; and provided further, that in the event the member receives a lump sum settlement of benefits that he or she is or may be entitled to in the future under the Act, and said settlement does not specify how much of the lump sum represents settlement of his or her

entitlement to temporary total or partial incapacity, as opposed to other benefits, the Board shall determine the portion of such lump sum which in its judgment represents compensation for such benefits. (1961 Code, § 9-107; 11-74-9; 28-77-3; 20-81-3; 34-81-3; 4-83-3; 36-88-3; 29-89-3; 1-93-3; 48-96-3; 10-01-3; 23-07-3; 47-08-3; 23-11-3; 67-13-3, § 1; 3-16-3; 37-17-3.)

Section 3-3-37.1. - Joint and last survivor option for disability beneficiaries.

A member of the System who applied for an ordinary or service-connected disability retirement allowance, including those members who are determined to be eligible for severe service-connected disability retirement by the Board, on or after July 1, 1988, may, before his or her actual retirement date, elect the joint and last survivor option provided by Section 3-3-33(c). (36-88-3; 48-96-3; 3-16-3.)

Section 3-3-37.2. - Severe service-connected disability retirement.

- (a) Any member in service may, at any time before his or her normal retirement date, be retired on account of a severe disability which is due to injury by accident and/or disease(s) which arose out of and in the course of the member's service. The Board shall determine whether a member has suffered a severe disability as defined herein due to injury by accident and/or disease(s) which arose out of and in the course of a member's service. In making this determination, the Board shall consult the decisions of the Virginia Workers' Compensation Commission, the Court of Appeals of Virginia, and the Supreme Court of Virginia which applied or construed language under the Virginia Workers' Compensation Act. Furthermore, in making this determination, the Board shall consider any medical record or information and/or any further tests or examinations required pursuant to Section 3-3-10.1.
- (b) When a member or his or her employer submits a written application for service-connected disability retirement as set forth in Section 3-3-36, the Board shall determine whether the member meets the requirements for qualification to receive severe service-connected disability as set forth in this Section. Prior to submitting such application, the member shall be required to apply for ~~all~~ workers' compensation ~~and social security benefits~~ to which he or she may be entitled. The member shall also be required to submit to the Board copies of the dispositions as made of his or her workers' compensation ~~and social security claims~~ and any subsequent awards or other documents reflecting any modification or termination of such benefits. With respect to the determination of a member's eligibility for retirement under this Section, the Board shall give great weight to the decisions of the Virginia Workers' Compensation Commission, the Court of Appeals of Virginia, and the Supreme Court of Virginia on the compensability of his or her disability under the Virginia Workers' Compensation Act; and the Board may modify its prior determination of eligibility under this Section in light of any such decision within 90 days after the date such decision becomes final.
- (c) Any member otherwise eligible for ordinary disability retirement under Section 3-3-34 whom the Board finds to be disabled but not eligible for retirement under this Section, shall be retired pursuant to Section 3-3-34. Any member otherwise eligible for service-connected disability retirement under Section 3-3-36 whom the Board finds to be disabled but not eligible for retirement under this Section, shall be retired pursuant to Section 3-3-36.
- (d) *Severe disability* shall mean an impairment from the list below that permanently incapacitates the member from performing the necessary duties of the position in which he or she had been employed prior to sustaining the impairment.
  - (1) Schedule of impairments:
    - (A) Loss of both hands or both feet;
    - (B) Loss of one hand and one foot;
    - (C) Loss of one hand and the sight of one eye;
    - (D) Loss of one foot and the sight of one eye;
    - (E) Loss of the sight of both eyes;
    - (F) Paralysis, either paraplegia or quadriplegia;

- (G) Cancers determined to be compensable by the Virginia Workers' Compensation Commission which were caused by documented contact with a toxic substance, pursuant to Section 65.2-402(c) of the *Virginia Code* ;
  - (H) Loss of speech;
  - (I) Loss of hearing;
  - (J) A mental incapacity that meets the criteria for disability benefits under the Federal Old-Age Survivors' and Disability Insurance Act; or
  - (K) Hepatitis C.
- (2) Loss shall mean:
- (A) With respect to a hand or foot, the dismemberment by severance through or above the wrist or ankle joint, or the partial dismemberment resulting in the loss of functional use of the partially dismembered hand or foot.
  - (B) With respect to sight, central acuity of 20/200 or less with the use of correcting lenses or visual acuity greater than 20/200 if accompanied by a limitation in the field of vision that the widest diameter of the visual field subtends an angle no greater than 20 degrees. These standards apply to the affected eye if sight loss is claimed for one eye in combination with loss of a hand or foot, or to the better eye if sight loss is claimed for both eyes.
  - (C) With respect to hearing, a severe and irreversible bilateral loss of hearing that is not correctable with either the use of hearing aids or with corrective surgery.
- (e) For the purpose of this Section only, *member in service* shall include a member who has not reached his or her normal retirement date and who has been retired on account of a service-connected disability pursuant to the terms of Section 3-3-36.
  - (f) A member for whom an application for severe service-connected disability is approved by the Board shall not be required to submit to medical re-evaluations as required by Section 3-3-40. (48-96-3; 19-01-3; 7-03-3; 34-04-3; 3-16-3.)

Section 3-3-37.3. - Severe service-connected disability retirement allowance.

- (a) Any member who retires pursuant to Section 3-3-37.2 shall receive an annual retirement allowance, payable monthly during his or her lifetime, consisting of an amount equal to 90 percent of the salary the member was entitled to receive at the time of his or her retirement. This allowance shall be reduced ~~by five percent of the amount of any primary social security benefit to which the member is entitled and by the amount of any compensation awarded under the Virginia Workers' Compensation Act to the member for temporary total or partial incapacity; provided, that no reduction shall be made to a member's service-connected disability retirement allowance due to the member's entitlement to social security disability benefits in whole or in part as the result of a disability other than the disability that served as the basis for the award of service-connected disability retirement.~~
- (b) ~~When the amount of a member's primary social security disability benefit has once been determined for purposes of applying the five percent reduction described in Subsection (a), the amount of the reduction shall not thereafter be increased on account of cost of living increases awarded under social security. However, t~~The amount of the reduction shall be increased by an award of a cost-of-living increase to the member's compensation for temporary total or partial incapacity under the Virginia Workers' Compensation Act (Act). When the member is no longer entitled to receive payments for temporary total or partial incapacity under the Act because of the limits in the Act as to the total amount of such compensation or as to the period of time that the member is entitled to receive such compensation, the amount of such payments shall no longer be used to reduce the retirement allowance and, accordingly, subsequent monthly payments of the allowance shall be determined as if the original allowance had been computed without the reduction for such payments.
- (c) If a member receives his or her compensation for temporary total or partial incapacity under the Virginia Workers' Compensation Act (Act) in the form of a lump sum payment, he or she shall receive no monthly retirement allowance otherwise payable under this Section until such time as the

amounts he or she would have received equal the amount of his or her lump sum benefit under the Act; provided, however, neither a lump sum payment or portion thereof representing compensation for permanent total or partial loss or disfigurement under the Act nor a lump sum payment or portion thereof representing compensation for periods of temporary total or partial incapacity which occurred prior to the effective date of the member's retirement under Section 3-3-37.2 shall be offset against the member's allowance under this Section; and provided further, that in the event the member receives a lump sum settlement of benefits that he or she is or may be entitled to in the future under the Act, and said settlement does not specify how much of the lump sum represents settlement of his or her entitlement to temporary total or partial incapacity, as opposed to other benefits, the Board shall determine the portion of such lump sum which in its judgment represents compensation for such benefits. (48-96-3; 10-01-3; 23-07-3; 47-08-3; 23-11-3; 68-13-3, § 1; 3-16-3; 38-17-3.)

Section 3-3-38. - Service-connected accidental death benefit.

If death of a member is caused by an accident occurring prior to retirement and such death is compensable under the Virginia Workers' Compensation Act, there shall be paid, in addition to any other benefits of this Article or other legislation, the following:

- (a) For a member whose death occurs before retirement:
  - (1) The member's accumulated contributions as provided in Section 3-3-29(c) to his or her designated beneficiary duly approved, acknowledged, and filed with the Board, otherwise to the member's estate; provided, no benefit is payable under Section 3-3-43; and
  - (2) The sum of \$10,000.00 to his or her designated beneficiary duly approved, acknowledged, and filed with the Board, otherwise to the member's estate.
- (b) For a member whose death occurs after retirement:
  - (1) The member's accumulated contributions as provided in Section 3-3-29(c) less the amount of any retirement allowances previously received by the member, such sum to be paid to his or her designated beneficiary duly approved, acknowledged and filed with the Board, otherwise to the member's estate; provided, no benefit is payable under Section 3-3-33; and
  - (2) The sum of \$10,000.00 to his or her designated beneficiary duly approved, acknowledged and filed with the Board, otherwise to the member's estate. (1961 Code, § 9-108; 11-74-9; 5-85-3; 3-16-3.)

Section 3-3-39. - Refund of contributions upon withdrawal or death; deferred vested benefit.

(a) Refund of contributions.

- (1) If a member has ceased to be an employee, otherwise than by death or by retirement under the provisions of this Article, and has fewer than five years of creditable service on his or her date of separation, he or she shall be eligible for a refund of the total of his or her accumulated contributions (with interest) which have been reduced by the amount of any retirement allowances previously received by him or her under this Article. The member shall file a written application with the Board for such refund and he or she shall be paid the amount to which he or she is entitled not later than 90 days after receipt of his or her application by the Board. Should a member or a person in retirement die, the amount of his or her accumulated contributions reduced by the amount of any retirement allowances previously received by him or her under this Article shall then be payable in a lump sum to a designated beneficiary or in the absence of a designated beneficiary to his or her estates; provided, no benefit is payable under Section 3-3-33(c).
- (2) A member who becomes eligible for membership in either the Virginia Retirement System (VRS) and the Educational Employees Supplemental Retirement System of Fairfax County (ERFC), the Fairfax County Employees' Retirement System, or the Fairfax County Police Officers Retirement System prior to receipt of a refund amount may, under such rules and regulations as are adopted by the Board and by the board of the system of which he or she is eligible to become a member, elect in writing to transfer the amount of his or her refund directly from this System to the system for which he or she has become eligible for membership. In the

alternative, to the extent that a refund is an "eligible rollover distribution" within the meaning of Section 402(f)(2)(A) of the Internal Revenue Code, such a member may (a) under rules and regulations of the system of which he or she is eligible to become a member, elect in writing to roll over the amount of his or her refund directly from this System to the system for which he or she has become eligible for membership or (b) elect in writing to roll over the portion of his or her refund which is such an eligible rollover distribution directly to an individual retirement account.

- (3) All refunds shall be mailed to the last address on record with the Board. Refunds that have not been claimed within six months shall become the property of the System.
- (b) Deferred vested benefit. If a member has five or more years of creditable service on his or her date of separation from the County, the member may leave his or her accumulated contributions in the System and receive a deferred vested benefit payable beginning the date the member attains 55 years of age. Members who choose a deferred vested benefit are not eligible to receive the pre-social security benefit. (1961 Code, § 9-109; 11 -74-9; 20-81-3; 34-81-3; 5-85-3; 36-88-3; 45-93-3; 10-01-3; 01-11-3; 3-16-3.)

Section 3-3-40. - Medical reevaluation of disabled members; penalty for unjustified refusal to accept medical attention, vocational rehabilitation or selective employment, or to submit to medical examination.

- (a) Once each year during the first five years following the retirement of a member on a disability retirement allowance, and once in every three-year period thereafter, the Board shall require any such beneficiary prior to his or her normal retirement date to undergo a medical examination by the Medical Examining Board. Should such a beneficiary refuse to submit to any such medical examination or unreasonably and without just cause or excuse refuse medical attention recommended by the Medical Examining Board, his or her disability retirement allowance shall be discontinued until his or her withdrawal of such refusal; and should his or her refusal continue for one year, all his or her rights to any further disability retirement allowance shall cease.
- (b) Members who are beneficiaries of service-connected disability retirement allowances pursuant to Section 3-3-36, and who are receiving periodic payments from their employers pursuant to the Virginia Workers' Compensation Act (Act) which are required to be offset against the allowances pursuant to Section 3-3-37, shall cooperate with and accept medical services or vocational rehabilitation and/or selective employment provided by the employer pursuant to the Act. In the event a member's periodic payments are suspended by the Virginia Workers' Compensation Commission (Commission) for unjustified refusal to accept medical services, vocational rehabilitation and/or selective employment, the Board may, if in its determination such refusal was unjustified, direct that the allowance pursuant to Section 3-3-37 shall be computed as if the member received the suspended payments. The Board shall make appropriate adjustment to the member's allowance if the suspension by the Commission is subsequently reversed or modified. Employers shall promptly notify the Board of any suspensions or releases from suspensions affecting members subject to this Subsection, for unjustified refusal creates a rebuttable presumption that the member unjustifiably refused medical services, vocational rehabilitation training, and/or selective employment.
- (c) The requirement for medical examinations of disability retirees established in this Section is not applicable to retirees who are receiving severe service-connected disability retirement benefits pursuant to Section 3-3-37.2. (1961 Code, § 9-110; 11-74-9; 28-77-3; 36-88-3; 3-16-3.)

Section 3-3-41. - Reduction of service-connected disability retirement allowance.  
Repealed by 11-94-3.

Section 3-3-42. - Cessation of disability retirement allowance.

- (a) Should a beneficiary of a disability retirement allowance return to service at any time prior to his or her normal retirement date, his or her disability retirement allowance shall cease, and he or she shall become a member of the System and contributions, in accordance with Section 3-3-26, shall resume. Any service on the basis of which his or her disability retirement allowance was computed shall thereafter be counted as creditable service; and, in addition, the period of disability retirement shall be counted as creditable service for those on service-connected disability retirement.



- (b) Any excess accumulated contributions of such beneficiary over the disability retirement allowances received by him or her shall be transferred from the retirement allowance account to the member's contribution account. (1961 Code, § 9-112; 11-74-9; 5-85-3; 3-16-3.)

Section 3-3-43. - Cessation of normal or early service retirement allowance.

- (a) Subsection (b) of this Section shall apply to persons who are receiving a normal or early service retirement allowance from this System, the Fairfax County Employees' Retirement System, or the Fairfax County Police Officers Retirement System and who submitted their application for such allowance to the Board of such system on or before July 21, 1986. Subsection (c) of this Section shall apply to persons who are receiving a normal or early service retirement allowance from this System, the Employees' Retirement System, or the Police Officers Retirement System and who submitted their application for such allowance to the Board of such system after July 21, 1986.
- (b) Should a person receiving a normal or early service retirement allowance from this System, the Fairfax County Employees' Retirement System, or the Fairfax County Police Officers Retirement System (retiree) return to regular service in a permanent position in any office or employment paid directly or indirectly by the County, he or she shall elect to receive such retirement allowance under one of the following two options.
  - (1) Such allowance shall not commence or, if already commenced, shall cease while the retiree is so employed. His or her allowance shall commence or resume upon application or reapplication by the retiree after he or she has ceased permanent employment in such a position. The allowance of a retiree of this System who is appointed to a position covered by the Employees' Retirement System or Police Officers Retirement System shall commence or resume at that cost-of-living adjustment amount pursuant to Section ~~3-3-553-3-54~~ which would have been payable had the retiree continued to receive his or her allowance without interruption. A retiree of this System who elects in writing at the time of reappointment to a position covered by this Article not to become a contributing member during the period of his or her reemployment shall be exempted from the requirement to make contributions to this System. A retiree of this System who elects in writing at the time of reappointment to a position covered by this Article to become a contributing member again during the period of his reemployment shall be eligible:
    - (A) For a recomputation of his or her allowance to take into account compensation and creditable service attributable to the period of reemployment during which his or her allowance was suspended under this Subsection;
    - (B) To make new election for any optional benefit to which he or she is entitled; and
    - (C) For a retirement allowance for a service-connected disability arising out of and in the course of his or her reemployment (in lieu of his or her service retirement allowance).

A retiree of the Employees' Retirement System or Police Officers Retirement System who is appointed to a position covered by this Article and elects in writing within 30 days of such appointment may be excluded from membership in this System.

- (2) The retiree may elect to continue to receive his or her service retirement allowance. A retiree electing this option shall not be eligible for membership in the Employees' Retirement System or Police Officers Retirement System if either covers the position in which he or she is reemployed. If he or she is a retiree of this System and the position in which he or she is reemployed is covered by this System, he or she shall not be required to contribute to this System during his or her period of reemployment.
- (c) A person receiving a normal or early service retirement allowance from this System, the Fairfax County Employees' Retirement System, or the Fairfax County Police officers Retirement System (retiree) may return to employment for which compensation is paid directly or indirectly by the County subject to the following conditions:
  - (1) A retiree shall not receive in combined compensation and retirement allowance, computed monthly, any more than 115 percent of the then current maximum monthly salary for a Deputy County Executive in the County's Compensation Plan. The appropriate Retirement System

Board of Trustees shall reduce the retiree's allowance as necessary to keep the combined salary and allowance at this limit. For purposes of this Subsection, a retiree's allowance shall be deemed to be the allowance that he or she would receive if he or she had not elected a joint or last survivor option which results in an actuarially reduced allowance. Employers under all three systems shall report salaries paid to retirees to the retiree's Board.

- (2) A retiree who is employed in a position service in which would otherwise make him or her eligible for membership in this System, the Employees' Retirement System, or the Police Officers Retirement System, shall not be eligible for membership in that system.
- (d) Notwithstanding any other provision of this Article or any other Article of this Chapter, a person receiving a normal or early service retirement allowance from this System, the Fairfax County Employees' Retirement System, or the Fairfax County Police Officers Retirement System (retiree) may be employed in a position under his or her former appointing authority subject to the following terms and conditions.
  - (1) If the retiree is a member of this System and service in the position to which he or she is to be appointed ordinarily would result in membership this System, his or her normal or early service retirement allowance shall be suspended for the duration of his or her new employment. During his or her new employment, he or she shall make member contributions to this System. At the time of his or her new employment, he or she shall be entitled to make all elections available to new members of this System, and if otherwise eligible, during his or her employment, he or she may apply for ordinary or service-connected disability retirement. In such case, his or her combined years of service and his or her average final compensation based on his or her new employment shall be used in calculating the disability retirement allowance. On re-application for service retirement from his or her new employment, the retiree shall receive as his or her service retirement allowance the higher of (i) his or her initial service retirement allowance increased by any cost-of-living increases that were granted by the Board to service retirements during the period of his or her new employment or (ii) a service retirement allowance calculated on the basis of his or her combined years of creditable service in his or her initial and new employment and his or her average final compensation calculated on the basis of the creditable compensation that he or she received during both his or her initial and new employment, as if there had been no break in service.
  - (2) A retiree who is a member of this System and who is to be re-appointed to a position service in which would result in membership in either the Employees' Retirement System or Police Officers Retirement Systems but for his or her membership in this System, shall be subject to Subsection (b) or (c) of this Section, whichever is applicable.
  - (3) If the retiree is a member of either the Employees' Retirement or Police Officers Retirement Systems and service in the position to which he or she is to be appointed would result in membership in this System but for this membership in the other system, the retiree shall be subject to Subsection (b) or (c) of this Section, whichever is applicable.
  - (4) This Subsection shall apply to all persons appointed to positions on or after March 1, 1990, service in which would ordinarily make them members of this System, the Employees' Retirement System, or Police Officers Retirement Systems. (20-81-3; 35-81-3; 36-86-3; 27-90-3, § 3; 10-01-3; 11-05-3; 3-16-3.)

Section 3-3-44. - Spouse retirement allowance.

- (a) Should death occur to a member in service who has completed five years of creditable service, a retirement allowance shall be payable to the member's spouse if said spouse is the designated beneficiary duly approved, acknowledged and filed with the Board. The annual retirement allowance, payable monthly for life shall be 50 percent of the annual retirement allowance provided in the first sentence of Section 3-3-33(a), with creditable service and final compensation being determined as of the date of the member's death. Said spouse shall elect within 90 days after notice by the Board of the option of receiving the benefits outlined in this Subsection or a lump sum payment of the member's accumulated contributions as provided in Section 3-3-39, or within 180 days of the death of the member, whichever first occurs. If death is due to a service-connected accident as defined in

Section 3-3-38, and the designated beneficiary under Section 3-3-38(1)(A) is the member's spouse, the spouse shall elect in writing within 90 days after the notice by the Board, or within 180 days of the death of the member, whichever first occurs, to receive either the benefits contained in this Subsection or those contained in Section 3-3-38(1)(A). In the event of the spouse's death prior to receiving allowances under this Section equaling the sum of the member's accumulated contribution, said sum, reduced by the amount of any retirement allowances previously paid under this Section, shall be paid to the spouse's designated beneficiary duly approved, acknowledged and filed with the Board, otherwise the spouse's estate.

- (b) Should death occur to a member in service who has completed five years of creditable service and if the member's designated beneficiary, duly approved, acknowledged and filed with the Board, is not the member's spouse, a lump sum payment equaling the member's accumulated contribution as provided in Section 3-3-29(c), shall be paid to the designated beneficiary.
- (c) Should death occur to a member in service who has completed five years of creditable service and the member has no designated beneficiary, a lump sum payment equaling the member's accumulated contribution shall be paid to the member's estate; provided, that if such member's spouse is the sole person entitled under the laws of the Commonwealth of Virginia to the benefits provided hereunder, then said spouse shall have the same right to elect benefits as is provided to spouses in Subsection (a) of this Section.
- (d) Effective on and after January 1, 2007, if a member dies while performing "qualified military service" as defined in Section 414(u) of the Internal Revenue Code, any additional benefits that would have been provided under the System if the member had resumed employment on the day prior to his or her death and then terminated employment due to death shall be paid to such member's designated beneficiary or, if applicable, estate. (1961 Code, § 9-113; 11-74-9; 28-77-3; 20-81-3; 5-85-3; 29-09-3; 01-11-3; 3-16-3.)

Section 3-3-45. - Cost-of-living adjustments.

Monthly retirement allowances shall be adjusted effective July 1, 1981, and each July 1 thereafter in order to reflect changes in the cost of living since the date of benefit commencement; provided, that such adjustments shall not affect the amount of the social security benefit allowance payable pursuant to Section 3-3-33(a)(1)(B) or Section 3-3-33(a)(2)(B); and provided further, that allowances for service-connected disability retirement shall be subject to Subsection (d) of this Section. The monthly benefit allowance to be effective July 1 of any such year shall be the benefit in effect immediately prior to such adjustment increased for the basic cost-of-living increase provided for in Subsection (a) of this Section and the supplemental cost-of-living increase if any, provided for in Subsection (b) of this Section with such increase reduced as provided in Subsection (c) of this Section in the event the monthly retirement allowance has been in pay status for less than 12 months.

- (a) The basic cost-of-living increase shall be the lesser of four percent and the percentage corresponding to the percentage increase in the Consumer Price Index during the 12-month calendar period ending with the March immediately preceding the July in which the increase is effective. For the purpose of this Section, *Consumer Price Index* shall mean the Consumer Price Index for all Urban Consumers (CPI-U) as issued by the Bureau of Labor Statistics of the U.S. Department of Labor for the appropriate Standard Metropolitan Statistical Area (SMSA) that includes the County.
- (b) As part of each biennial actuarial valuation, the actuary shall determine the percentage supplemental cost-of-living increase (not greater than one percent that can be provided on the following two July first's based upon the available actuarial surplus). The Board then may, but shall not be required to, increase the benefits of all retirement allowances in pay status on each of such July first by such actuarially determined percentage. For the purpose of this Section, *available actuarial surplus* shall mean the excess of the actuarial value of the assets of the System over the actuarial accrued liabilities of the System as disclosed in the biennial actuarial valuation of the System.
- (c) In the event a member receiving a retirement allowance has not been in pay status for 12 full months, the basic cost-of-living increase and the supplemental cost-of-living increase shall be

determined as the percentage of the full increase determined in Subsections (a) and (b) of this Section as follows:

Number of Complete Months Benefit Has Been in Pay Status	Percentage of Full Increase
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Less than 3 ..... 0%  
 3, 4 or 5 ..... 25%  
 6, 7 or 8 ..... 50%  
 9, 10 or 11 ..... 75%

- (d) Cost-of-living adjustments provided by this Section shall be applied to the net amount of the member's service-connected disability retirement allowance after all reductions required by Section 3-3-37 have been made. The member's allowance after the adjustments for cost of living provided by this Section at any date in time shall be determined by retroactive computation from the date of initial retirement, and the application of all applicable cost-of-living adjustments to the net allowance which the member is entitled to under Section 3-3-37.
- (e) The Board of Supervisors reserves the right to amend, terminate or modify the post-retirement increases described in Subsection (b) of this Section. Upon termination, no further increases to allowances shall be due or payable to any member or beneficiary. However, any such amendment, termination or modification shall not reduce the amount of the allowance then being paid to any member or beneficiary who has received allowances as of the date of the amendment, termination or modification. Furthermore, no amendment, termination or modification shall reduce the rights of any member as of June 30, 1981, to increases such member was entitled to based upon the terms of the plan in effect on June 30, 1981. (1961 Code, § 9-114; 11-74-9; 20-81-3; 1-93-3; 26-10-3; 3-16-3.)

~~Section 3-3-46. - Social Security benefit proviso.~~

~~If a member does not qualify for or loses any primary social security benefits to which he or she is entitled under social security, because of his or her failure to make application therefor or because of his or her violation of the Social Security Act or because of any disqualification resulting from the earned income of the member, such primary social security benefit shall nevertheless be considered as being received by such beneficiary for the purposes of this Article. (1961 Code, § 9-115; 11-74-9; 20-81-3; 36-88-3; 3-16-3.)~~

Section 3-3-46. - Retention rights.

Participation in the System does not convey the right to be retained in service, or any right or claim to any assets of the System unless such right has specifically accrued under this Article. (1961 Code, § 9-116; 11-74-9; 20-81-3; 36-88-3; 3-16-3.)

~~Section 3-3-483-3-47.~~ - Vesting on termination of System; nonreversion of funds.

Upon termination of the System or upon complete discontinuance of contributions to the System, the rights of all members to benefits accrued to the date of such termination or discontinuance, to the extent then funded, are non-forfeitable. No portion of the assets of the System shall be used for, or diverted to, purposes other than for the exclusive benefit of the members and their beneficiaries prior to the satisfaction of all liabilities with respect to members and their beneficiaries. (1961 Code, § 9-117; 11-74-9; 20-81-3; 36-88-3; 3-16-3.)

~~Section 3-3-493-3-48.~~ - Nonretroactivity to members retired or terminated prior to July 1, 1974.

The benefits provided by this Article shall not apply to members retired or terminated prior to July 1, 1974, and their rights and benefits shall be determined under the ordinance in effect prior thereto. However, retirement allowances determined thereunder shall be subject to post-1974 cost-of-living adjustments. (1961 Code, § 9-118; 11-74-9; 20-81-3; 3-16-3.)

~~Section 3-3-503-3-49.~~ - Review of adverse decisions.

Any member adversely affected by a decision of the Board shall receive written notice of said

decision and may, within 30 days of receipt of such notice, request in writing a review by the Board of said decision, pursuant to procedures established by the Board. (20-81-3; 3-16-3.)

Section ~~3-3-543-3-50~~. - Transfer to Senior Executive Retirement Plan.

Repealed by 97-26-3.

Section ~~3-3-523-3-51~~. - Masculine usage includes feminine.

Repealed by 3-16-3.

Section ~~3-3-533-3-52~~. - Limitation on annual retirement allowance.

Notwithstanding any other provision of this Article, the annual retirement allowance to which any member may be entitled shall not exceed the limits on benefits set forth in Section 415 of the Internal Revenue Code and any regulations issued by the U.S. Department of the Treasury thereunder, and in calculating such limits a member's compensation shall include any differential wage payments for military service as defined under Section 3401(h)(2) of the Internal Revenue Code and paid on or after January 1, 2009. Such limits shall be applied annually for the 12-month period commencing each July 1 and ending the following June 30. A benefit payable other than in the form of an annuity shall not exceed the amount which, when converted to an actuarial equivalent annual benefit, does not exceed the limits on benefits set forth in Section 415(b) of the Internal Revenue Code. Effective June 30, 2000, the mortality tables prescribed by the Uruguay Round Agreement Acts (GATT), as set forth in Internal Revenue Service Revenue Ruling 2001-62 (superseding and modifying Revenue Ruling 95-29), or as further updated or modified by the Internal Revenue Service, shall be used in determining the actuarial equivalent amount of such benefit. (27-90-3, § 4; 21-96-3; 8-03-3; 01-11-3; 3-16-3.)

Section ~~3-3-543-3-533-3-53~~. - Distribution of benefits.

Notwithstanding any other provision of this Article, effective for plan years beginning after December 31, 1986, the entire interest of each member shall be distributed to such member not later than the required beginning date specified below, or shall be distributed, beginning not later than the required beginning date, over the life of such member or over the lives of such member and a beneficiary or over a period not extending beyond the life expectancy of such member or the life expectancy of such member and a beneficiary. For this purpose, the term *required beginning date* shall mean April 1 of the calendar year following the later of the calendar year in which the member attains 70½ years of age, or the calendar year in which the member retires. If a member dies after distribution of the member's interest has begun, the remaining portion, if any, of such interest shall be distributed at least as rapidly as under the method of distribution being used as of the date of death. If a member dies before the distribution of the member's interest has begun, any death benefit shall be distributed within five years after the death of such member, unless (1) any portion of the member's interest is payable to (or for the benefit of) a designated beneficiary, (2) such portion shall be distributed over the life of such beneficiary or over a period not extending beyond the life expectancy of such beneficiary, and (3) if the beneficiary is someone other than the member's surviving spouse, such distributions shall begin not later than one year after the date of the member's death or such later date as the U.S. Secretary of the Treasury may by regulations prescribe. If the beneficiary is the surviving spouse of the member, (1) distribution shall begin on or before the latest of one year after the date of the member's death, such later date as the U.S. Secretary of the Treasury may by regulations prescribe, or the date on which the member would have attained 70½ years of age and (2) if the surviving spouse dies before the distributions to such spouse begin, the distribution rules specified in this Section shall be applied as if the surviving spouse were the member. Distributions from the System shall be made in accordance with the requirements of Section 401(a)(9) of the Internal Revenue Code, including the rules for incidental death distributions set forth at Section 401(a)(9)(G). (27-90-3, § 4; 51-13-3; 3-16-3.)

Section ~~3-3-553-3-54~~. - Direct rollovers to other plans.

(a) General. This Section applies to distributions made on or after January 1, 1993. Notwithstanding any provision of the System to the contrary that would otherwise limit a distributee's election under this Section, a distributee may elect to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. However, to the extent that any portion of the amount of the rollover is comprised of after-tax contributions, the distribution may only be rolled over to an eligible retirement plan that separately accounts for after-tax contributions.

(b) Definitions.

- (1) *Eligible rollover distribution* shall mean any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Internal Revenue Code; and the portion of any distribution that is not includible in gross income.
- (2) *Eligible retirement plan* shall mean any one of the following that accepts the distributee's eligible rollover distribution: an individual retirement account described in Section 408(a) of the Internal Revenue Code; an individual retirement annuity described in Section 408(b) of the Internal Revenue Code; an annuity plan described in Section 403(a) of the Internal Revenue Code; a qualified trust described in Section 401(a) of the Internal Revenue Code; an annuity contract described in Section 403(b) of the Internal Revenue Code; an eligible deferred compensation plan described in Section 457(b) of the Internal Revenue Code that is maintained by a state, political subdivision of a state, or an agency or instrumentality of a state; or effective for distributions made after December 31, 2007, a Roth IRA described in Section 408A of the Internal Revenue Code, provided the eligible rollover distribution is considered a "qualified rollover contribution" under Section 408A(e). However, in the case of an eligible rollover distribution to the surviving spouse, an eligible retirement plan is an individual retirement account or individual retirement annuity.
- (3) *Distributee* shall mean a member or former member. In addition, the member's or former member's surviving spouse and the member's or former member's spouse or former spouse who is entitled to receive benefits from the System, shall be distributees with regard to the interest of the spouse or former spouse. Effective for distributions on or after January 1, 2010, a distributee shall include a non-spouse beneficiary of a deceased member or former member who may make an eligible rollover distribution in a direct trustee-to-trustee transfer to an "inherited" individual retirement account.
- (4) *Direct rollover* shall mean a payment by the System to the eligible retirement plan specified by the distributee. (45-93-3; 21-96-3; 8-03-3; 01-11-3; 3-16-3.)

Section ~~3-3-563-3-55~~ - Additional retirement allowance.

(a) Definitions.

- (1) *Active member* shall mean a member of the System who is an employee on July 1, 1995, or who became an employee thereafter, and whose membership in the System has not ceased at any time from July 1, 1995, or from when he or she became an employee (whichever is later), until the effective date of his or her subsequent retirement.
- (2) *Retired member* shall mean a member of the System who is receiving a retirement allowance on July 1, 1995. A member of the System who is receiving a retirement allowance shall include any member whose effective date of retirement is on or before July 1, 1995.
- (3) *Retirement allowance* shall mean a normal service retirement allowance, an early service retirement allowance, an ordinary disability retirement allowance, a deferred vested benefit, or a spouse retirement allowance.
- (4) *Base annual retirement allowance* shall mean the initial calculation of a member's or spouse's annual retirement allowance without regard for any deductions for withholding or other benefit elections or adjustments under Section 3-3-8. For a member taking normal service retirement under Section 3-3-32(a), this is the allowance calculated under Section 3-3-33(a)(1) (post-age 55 years) or Section 3-3-33 (a)(2) (pre-age 55 years) less any additional allowance under Section 3-3-33(a)(1)(B); for a member taking early retirement under Section 3-3-32(b), this is the allowance calculated under Section 3-3-33(b), less any additional allowance under Section 3-3-33(a)(1)(B); for a member retired on account of ordinary disability under Section 3-3-34, this

is the allowance calculated under Section 3-3-35; for a member receiving a deferred benefit, this is the allowance calculated under Section 3-3-39(b); and for a spouse receiving a spouse retirement allowance, this is the allowance calculated under Section 3-3-44.

- (5) *Adjusted base annual retirement allowance* shall mean the base annual retirement allowance of a retired member or of the spouse of a member receiving the base spouse annual retirement allowance provided under Section 3-3-44, as increased by any cost-of-living adjustments applied to the member's or spouse's retirement allowance from the effective date of his or her retirement or election of the spouse retirement allowance through July, 1, 1995.
- (6) *Member in service* shall mean a member of the System.
- (b) The adjusted base annual retirement allowance of each retired member or spouse receiving a retirement allowance on July 1, 1995, shall be increased by three percent, effective July 1, 1995 (modified adjusted base annual retirement allowance). Adjustments to the retired member's or spouse's retirement allowance made under the provisions of this Article after July 1, 1995, shall be computed on the basis of the modified adjusted base annual retirement allowance.
- (c) When an active member retires or an eligible spouse of an active member elects to receive the spouse retirement allowance after July 1, 1995, after his or her base annual retirement allowance has been computed under the applicable Section of this Article, the resulting base annual retirement allowance shall be increased by three percent (initial base annual retirement allowance). Adjustments to the member's or spouse's retirement allowance under this Article shall be computed on the basis of the initial base annual retirement allowance.
- (d) If a member is entitled to the three percent increase in the base retirement allowance provided by either Subsection (b) or (c) of this Section and if at the time he or she is entitled to such increase, he or she is also eligible to receive in whole or in part the additional allowance provided by Section 3-3-33(a)(1)(B) under any provision of this Article, such additional allowance shall be also increased by three percent.
- (e) Separation from service.
  - (1) A member who:
    - (A) Separated from service other than by death or retirement with five or more years of creditable service in the System prior to July 1, 1995, and
    - (B) Has not withdrawn his or her accumulated contributions as of July 1, 1995, and
    - (C) Subsequently applies for and is determined to be eligible for a deferred vested benefit after July 1, 1995, shall have his or her deferred vested benefit computed mutatis mutandi in the same manner as an active member under Subsection (c) of this Section.
  - (2) A member in service on or after July 1, 1995, who:
    - (A) Subsequently separates from service other than by death or retirement with five or more years of creditable service in the System, and
    - (B) Does not withdraw his or her accumulated contributions, and
    - (C) Subsequently applies for and is determined to be eligible for a deferred vested benefit, shall have his or her deferred vested benefit computed mutatis mutandi in the same manner as an active member under Subsection (c) of this Section.
  - (3) A member in service on or after July 1, 1995, who,
    - (A) Subsequently separates from service other than by death or retirement with five or more years of creditable service in the System, and
    - (B) Does not withdraw his or her accumulated contributions, and
    - (C) Thereafter, returns to service and again becomes a member of the System, and



- (D) Subsequently applies for and is determined to be eligible for a normal service, early service, or ordinary disability retirement allowance, or for a deferred vested benefit, shall have his or her allowance or deferred vested benefit computed mutatis mutandi in the same manner as an active member under Subsection (c) of this Section.
- (4) A member in service on or after July 1, 1995, who:
  - (A) Thereafter separates from service, and
  - (B) Withdraws his or her accumulated member's contributions, and
  - (C) Subsequently returns to service and again becomes a member of the System, and
  - (D) At that time makes arrangements to purchase credit for all of his or her previous service in the System under this Article, and
  - (E) Thereafter applies for and is determined to be eligible for a normal service, early service, or ordinary disability retirement or for a deferred vested benefit, shall have his or her allowance or deferred vested benefit computed mutatis mutandi in the same manner as an active member under Subsection (c) of this Section.
- (f) The spouse of a member who retired on a normal service, early service or ordinary disability retirement who is receiving an allowance under the joint and last survivor option provided by Section 3-3-33(c), on July 1, 1995, shall have such allowance increased by three percent, effective July 1, 1995. Adjustments to such allowance under this Article after July 1, 1995, shall be computed on the basis of this increased allowance.
- (g) Notwithstanding the 60 percent of average final compensation limit contained in Section 3-3-35, the initial base annual retirement allowance of an active member who becomes eligible to receive an ordinary disability retirement allowance and who is entitled to the increase provided by Subsection (c) of this Section shall not exceed 61.8 percent of his or her average final compensation.
- (h) Notwithstanding any provision of this Section to the contrary, no adjustment under this Section shall be made which would violate the limitations provided by Section ~~3-3-533-3-52~~ concerning the limitations imposed by Section 415 of the Internal Revenue Code and U.S. Treasury regulations issued thereunder; provided, that any adjustment under this Section may be made up to those limitations. (12-95-3; 3-16-3.)

Section ~~3-3-573-3-56~~. - Deferred retirement option program.

Effective October 1, 2003, there is hereby established a Deferred Retirement Option Program (DROP) for eligible members of the System. Members of the System in service who are eligible for normal service retirement are eligible to elect to participate in this program.

- (a) Definitions.
  - (1) *DROP period* shall mean the three-year period immediately following the commencement of the member's participation in the DROP.
  - (2) *Eligible member* shall mean any member who is, or shall become within 60 days, eligible for normal service retirement benefits as those are defined in Section 3-3-32(a).
- (b) Election to participate.
  - (1) An eligible member may participate in the DROP only once. An eligible member who desires to participate in the DROP must file an application with the Fairfax County Retirement Administration Agency not less than 60 days prior to the date of the commencement of the member's participation in the DROP.
  - (2) A member's election to participate in the DROP is irrevocable, with the exception that a member who elects to participate in the DROP may revoke that election prior to the commencement of his or her DROP period; once revoked, a member may not then elect to participate in the DROP for a period of at least 12 months from the date of his or her revocation.



- (3) At the time of an eligible member's election to participate in the DROP, he or she must make an election in writing pursuant to Section 3-3-33(c) as to whether or not to receive a reduced retirement allowance in order to provide a retirement allowance for his or her spouse after the member's death.
  - (4) An eligible member who elects to participate in the DROP shall agree to do so for a period of three years.
  - (5) Subject to any limitation on the number of accrued sick leave hours that may be converted to creditable service as provided in Section 3-3-1(a)(1), an eligible member who elects to participate in the DROP shall, at the time of his or her election to participate in the DROP, make an election in writing as to whether he or she wishes to convert all of his or her available accrued sick leave to creditable service or to convert all but 40 hours of his or her accrued sick leave to creditable service. Sick leave that is either carried over or that accrues during the DROP period shall not be converted to creditable service at the conclusion of the DROP period.
- (c) Continued employment.
- (1) A participating DROP member shall, upon commencement of his or her DROP period, continue to work for the County in the position he or she held before the effective date of his or her election to participate in the DROP. Thereafter, the participating DROP member shall perform the services of that position or any other position to which he or she is promoted or transferred.
  - (2) A participating DROP member shall continue to accrue annual and sick leave and, if eligible, compensatory time during the DROP period. At the conclusion of the DROP period, the member shall receive the payment for his or her accrued annual and compensatory leave that he or she would have received upon retirement. In no case shall a participating DROP member receive payment for his or her accrued annual and compensatory leave at the commencement of the member's participation in the DROP.
  - (3) A participating DROP member shall continue to remain eligible for health and life insurance benefits provided by the County to its employees and shall remain eligible to participate in the County's deferred compensation plan. The deductions from the salary of a participating DROP member for health and life insurance benefits shall be the same deductions that would have been taken had the participating DROP member been an active County employee, not the deductions that would be taken from the retirement allowances and benefits of a retiree.
  - (4) All County personnel policies and regulations shall continue to apply to a participating DROP member after the commencement of his or her DROP period. A participating DROP member shall remain eligible for annual merit pay increments and promotions during the DROP period. However, a participating DROP member's salary during his or her DROP period shall not be included in the computation of the member's average final compensation. A participating DROP member is also subject to the County's disciplinary policies and regulations.
  - (5) If a participating DROP member's continued employment with the County is interrupted by military service, there shall be no interruption of the member's participation in the DROP. During the period of the participating DROP member's military service, the member's retirement allowances and benefits shall continue to be paid into the participating member's DROP account until the member's DROP period ends. At the end of the DROP period, the member's DROP account balance shall be paid to the member whether or not he or she has returned to his or her former County position, and the member shall begin to receive his or her normal retirement benefits.
  - (6) Except as otherwise set forth herein, a participating DROP member's continued service shall be deemed to be normal service retirement and shall not count as creditable service with the System.

- (7) Upon commencement of a participating DROP member's DROP period, the County shall cease to withhold contributions to the System from the participating DROP member's salary.
  - (8) The salary received by a participating DROP member during his or her DROP period shall not be included by the County in the base that is used to determine the amount of the County's employer contributions to the System.
- (d) DROP account.
- (1) Upon commencement of the participation of a member of the four plans that existed before January 1, 2013 (Plans A, B, C, and D), whose County employment commenced by reporting for work before January 1, 2013, in the DROP, the member's service retirement allowance pursuant to Section 3-3-33(a) and the additional retirement allowance pursuant to Section ~~3-3-563-3-55~~ shall be paid into the member's DROP account. Upon commencement of the participation of a member of Plan E, whose County employment commenced by reporting for work on or after January 1, 2013, in the DROP, the member's service retirement allowance pursuant to Section 3-3-33(a) shall be paid into the member's DROP account; the additional retirement benefits provided for in Section 3-3-33(a)(3) shall not be credited to the DROP accounts of members of Plan E, although members of Plan E shall remain eligible to receive the additional retirement benefits provided for in Section 3-3-33(a)(3) upon the completion of their DROP period, if they then meet the requirements for eligibility for such benefits set forth in Section 3-3-33(a)(3). The initial amount credited to a member's DROP account shall be computed based on his or her average final compensation as of the date of the commencement of the DROP period.
  - (2) The initial monthly amount shall be increased each July 1 based upon the annual cost-of-living adjustment provided to retirees pursuant to Section 3-3-45. Any other changes that occur during the DROP period that would result in an alteration of the participating DROP member's retirement allowances and benefits if he or she were retired shall also result in adjustments to the monthly amount credited to a participating DROP member's DROP account.
  - (3) The participating DROP member's DROP account shall be credited with interest at an annual rate of five percent, compounded monthly. Interest shall not be pro-rated for any period less than a full month.
  - (4) Contributions by the County and the participating DROP member into the System for the participating DROP member shall cease.
  - (5) Amounts credited to a participating DROP member's DROP account shall not constitute annual additions under Section 415 of the Internal Revenue Code.
  - (6) A participating DROP member's DROP account shall not be an account that is separate and distinct from the assets of the System; a participating DROP member's DROP account balance shall remain part of the assets of the System.
- (e) Cessation of County employment.
- (1) At the conclusion of a participating DROP member's DROP period, the member's County employment shall automatically cease. The participating DROP member shall then begin to receive normal service retirement allowances and benefits computed based upon his or her average final compensation at the time of the commencement of the DROP period and his or her creditable service at the time of the commencement of the DROP period, plus cost-of-living increases provided to retirees and any other benefit improvements that may have been granted to retirees during the participating DROP member's DROP period. At least 60 days prior to the conclusion of a participating DROP member's DROP period, the member shall make one of the following elections concerning payment of his or her DROP account balance:

- (A) The member may receive payment of his or her DROP account balance as a lump sum.
- (B) The member may elect to roll over his or her DROP account balance into an "eligible retirement plan," as defined in Section ~~3-3-553-3-54~~(b)(2).
- (C) The member may elect to receive payment of a portion of his or her DROP account balance and roll over the remaining portion into a qualified retirement plan, such as an IRA. If the member elects this method of receiving his or her DROP account balance, he or she must specify, in writing, the specific amount to be paid as a lump sum and the specific amount to be rolled over.
- (D) The member may elect to use his or her DROP account balance to increase his or her monthly retirement benefits and allowances. The amount of the increase shall be determined based on the actuarial equivalent of the member's DROP account balance.
- (E) The member may divide his or her DROP account balance in half, and may then elect to use 50 percent of his or her DROP account balance to increase his or her monthly retirement allowances and benefits, and to receive the remainder in any manner listed in Subparagraphs (A), (B) and (C) above.

In the event that the participating DROP member does not make the election required by this Subsection, the member shall receive payment of his or her DROP account balance as a lump sum.

- (2) A participating DROP member may terminate his or her County employment at any time, in which case the effective date of the member's termination of his or her County employment shall be treated as the end of the DROP period for all purposes of this Section.
  - (3) In the event that the employment of a participating DROP member is terminated by the County during the DROP period for any reason, the effective date of the member's separation from County service shall be treated as the end of the DROP period for all purposes of this Section.
- (f) Death or disability during DROP period.
- (1) (B) If a participating DROP member dies during the DROP period, and the participating DROP member's death is a service-connected accidental death as set forth in Section 3-3-38, the member's beneficiary shall receive the benefits provided for in Section 3-3-38(a)(1); if there is no designated beneficiary on record with the System, payment of these amounts shall be to the member's estate. In the event that the participating DROP member has elected a joint and last survivor option pursuant to the terms of Section 3-3-33(c), the participating DROP member's surviving spouse shall receive the benefits provided for in Section 3-3-38(a)(1)(B) and the participating DROP member's DROP account balance, and shall begin to receive allowances and benefits pursuant to the joint and last survivor election of the participating DROP member.
  - (2) If a participating DROP member becomes disabled during the DROP period, the participating DROP member shall receive:
    - (A) In the case that a participating DROP member suffers a disability that would be considered an ordinary disability as defined in Section 3-3-35, the effective date of the member's disability shall be treated as the end of the participating DROP member's DROP period.
    - (B) In the case that a participating DROP member suffers a service-connected disability as set forth in Section 3-3-36 or a severe service-connected disability as set forth in Section 3-3-37.2, the participating DROP member may elect either (i) to receive the service-connected disability retirement allowances and benefits or the severe service-connected disability retirement allowances and benefits to which he or she would

otherwise be entitled or (ii) to receive the normal service retirement benefits and allowances to which he or she would be entitled plus his or her DROP account balance. An election to receive service-connected disability retirement allowances and benefits or severe service-connected disability retirement benefits shall constitute a waiver of the member's right to receive any amounts credited to his or her DROP account balance.

- (g) Execution of documents and adoption of rules and regulations. The County Executive is authorized to execute all documents necessary or appropriate to operate the DROP including, but not limited to, the establishment of a trust within which the participating DROP members' DROP accounts shall be held and administered. The Board of Trustees is also authorized to adopt rules and regulations governing the DROP. Any documents executed by the County Executive shall be approved for form by the County Attorney prior to execution. (36-03-3; 41-08-3; 27-10-3; 01-11-3; 27-12-3; 3-16-3.)

Section ~~3-3-58~~3-3-57. - Increased retirement allowance for certain retired members.

(a) For the purposes of this Section only, the following words and phrases shall be defined as follows:

- (1) *Retired member* shall mean a member of the System whose effective date of retirement was on or before March 18, 2002.
- (2) *Retirement allowance* shall mean a normal service retirement allowance, an early service retirement allowance, an allowance to a surviving spouse pursuant to the joint and last survivor option, or a spouse retirement allowance.
- (3) *Spouse receiving a spouse allowance* shall mean a member's surviving spouse who was, on or before March 18, 2002, entitled to receive a spouse retirement allowance.
- (4) *Base annual retirement allowance* shall mean the initial calculation of a member's retirement allowance, a surviving spouse's allowance pursuant to the joint and last survivor option, or a spouse's annual retirement allowance, without regard to any deductions for withholding or other benefit elections or adjustments under Section 3-3-8.
  - (A) For Plan A members taking normal service retirement pursuant to Section 3-3-32(a), this is the allowance calculated pursuant to Sections 3-3-33(a)(1)(A) and (B) as in effect on the effective date of their retirement;
  - (B) For Plan B members taking normal service retirement pursuant to Section 3-3-32(a), this is the allowance calculated pursuant to Section 3-3-33(a)(1)(A), (B) and (C) as in effect on the effective date of their retirement;
  - (C) For Plan C members taking normal service retirement pursuant to Section 3-3-32(a), this is the allowance calculated pursuant to Section 3-3-33(a)(1)(D) as in effect on the effective date of their retirement;
  - (D) For Plan D members taking normal service retirement pursuant to Section 3-3-32(a), this is the allowance calculated pursuant to Section 3-3-33(a)(1)(D) and (E) (Plan D members) as in effect on the effective date of their retirement;
  - (E) For Plan A and C members taking early service retirement pursuant to Section 3-3-32(b) whose age plus creditable service as of the effective date of their retirement was less than 75 years, this is the allowance calculated pursuant to Section 3-3-33(b)(1) as in effect on the effective date of their retirement;
  - (F) For Plan B and D members and for Plan A and C members taking early service retirement pursuant to Section 3-3-32(b) whose age plus creditable service was greater than or equal to 75 years as of the effective date of their retirement, this is the allowance calculated pursuant Section 3-3-33(b)(2) as in effect on the effective date of their retirement; or
  - (G) For a surviving spouse receiving an allowance pursuant to the joint and last survivor option, this is the allowance calculated pursuant to Section 3-3-33(c) as in effect on the effective date of the member's retirement; or

- (H) For a spouse receiving a spouse allowance, this is the allowance calculated pursuant to Section 3-3-44(a) as in effect on the date of the commencement of payment of the spouse allowance.
- (5) *Adjusted base annual retirement allowance* shall mean the base annual retirement allowance as set forth in Subparagraph 4 of this Subsection as increased by any cost-of-living adjustments applied to the base annual retirement allowance from the effective date of the retired member's retirement or of the commencement of the receipt of a spouse allowance through December 31, 2003.
- (b) Effective January 1, 2004, the adjusted base annual retirement allowance of each retired member or spouse receiving a retirement allowance shall be increased as follows:
  - (1) For Plan A members, by 23 percent;
  - (2) For Plan B members, by 15 percent;
  - (3) For Plan C members, by five percent;
  - (4) For Plan D members, by five percent;
  - (5) For spouses receiving spouse allowances pursuant to Section 3-3-44(a), by ten percent; or
  - (6) For surviving spouses receiving allowances pursuant to the joint and last survivor option set forth in Section 3-3-33(c), by ten percent.
- (c) No increased retirement allowance calculated pursuant to this Section shall violate the limitations on annual retirement allowances set forth in Section ~~3-3-533-3-52~~.
- (d) For those persons eligible to receive the increased retirement allowance pursuant to this Section, cost of-living adjustments pursuant to Section 3-3-45 and made after January 1, 2004, shall be calculated based upon the increased retirement allowance set forth in this Section. (43-03-3; 3-16-3.)

Division 9. - Benefit Restoration Plan.

Section ~~3-3-593-3-58~~. - Benefit restoration plan.

- (a) There is hereby established a Benefit Restoration Plan for the System.
- (b) Purpose and intent; rule of construction.
  - (1) In establishing this Benefit Restoration Plan, the Board of Supervisors intends to establish and maintain a "qualified governmental excess benefit arrangement," as defined and authorized by the Section 415(m) of the Internal Revenue Code, as is permitted by Section 51.1-1302 of the *Virginia Code*. The purpose of this Benefit Restoration Plan is to restore, through a non-qualified arrangement, the benefits lost by the application of the limitation on annual benefits under Section 415(b) of the Internal Revenue Code as applicable to governmental plans. This Benefit Restoration Plan shall exist in addition to all other retirement, pension, or other benefits available to participants, including the benefits established by the System.
  - (2) This Section shall be construed to ensure compliance with federal and state law, and any regulations promulgated thereunder, governing such qualified governmental excess benefit arrangements, including, but not limited to Section 415(m) of the Internal Revenue Code and Sections 51.1-1302, 51.1-1303, and 51.1-1304 of the *Virginia Code*, as in effect at the time of the adoption of this Section and as subsequently amended.
- (c) Definitions.
  - (1) *Administrator* or *Plan Administrator* shall mean the Board, which is responsible for the general administration and operation of the Benefit Restoration Plan and for making effective the provisions of this Section. Under the oversight of the Board, the Executive Director shall be responsible for the day to day operation and administration of the Benefit Restoration Plan.
  - (2) *Beneficiary* shall mean the person or persons entitled under this Article to receive any benefits payable after the participant's death.

- (3) *Benefit Restoration Plan* or *Plan* shall mean the Benefit Restoration Plan for the System established by this Section.
  - (4) *Effective date* shall mean the date of this Section's adoption [June 5, 2006].
  - (5) *Eligible member* shall mean a retired member of the System whose benefits thereunder are reduced by the application of the limitations on annual benefits under Section 415(b) of the Internal Revenue Code as applicable to governmental plans.
  - (6) *Enabling statute* shall mean Chapter 13 of Title 51.1 of the *Virginia Code*, as amended.
  - (7) *Grantor trust* shall mean the trust fund described in Subsection (i)(3) of this Section and established and maintained for the Benefit Restoration Plan.
  - (8) *Participant* shall mean an eligible member qualified to participate in the Benefit Restoration Plan.
  - (9) *Plan Sponsor* shall mean the Board of Supervisors.
  - (10) *Plan Year* shall mean the 12-month period beginning on July 1.
  - (11) *Restoration death benefit* shall mean the benefit due the beneficiary of a participant under the Plan as determined under this Section.
  - (12) *Restoration retirement benefit* shall mean the benefit due a participant or his or her beneficiary under the Benefit Restoration Plan determined under this Section.
- (d) Eligibility and Participation.
- (1) Eligibility and date of participation. Each eligible member shall be a participant in the Benefit Restoration Plan commencing with the date he or she first becomes, or again becomes, an eligible member.
  - (2) Length of participation. Each eligible member who becomes a participant shall be or remain a participant for so long as he or she is entitled to future benefits under the terms of the Benefit Restoration Plan.
- (e) Restoration retirement benefit. Subject to the terms and conditions set forth in this Section, a participant who retires or is retired under the System and who is entitled to the payment of benefits under the System shall be entitled to a restoration retirement benefit, generally expressed as a benefit payable monthly for the life of the participant and commencing at the applicable time provided under this Article, equal to the excess, if any, of:
- (1) The amount of the participant's retirement allowance under the System, determined without regard to the limitations on contributions and benefits imposed by Section 415 of the Internal Revenue Code, over
  - (2) The amount of the participant's retirement allowance under the System.
- To the extent that the participant's retirement allowance payable under the System is increased at any time due to increases in limitations on contributions and benefits imposed by Section 415 of the Internal Revenue Code, whether by statute, regulation, actions of the U. S. Treasury Secretary or his or her delegate or otherwise, the participant's restoration retirement benefit shall be reduced correspondingly.
- (f) Death Benefit.
- (1) Death after benefit commencement. If a participant dies after his or her restoration retirement benefit commences to be paid, the only benefits payable under the Benefit Restoration Plan to his or her beneficiary after his or her death shall be those, if any, provided under the form of payment being made to him or her at his or her death.
  - (2) Death before benefit commencement. If a participant dies before his or her restoration retirement benefit commences to be paid, the only benefit payable under the Benefit

Restoration Plan with respect to him or her shall be the restoration death benefit, if any, provided in Subsection (f)(3) of this Section.

- (3) Restoration death benefit. Subject to the terms and conditions set forth herein, if a participant dies on or after the effective date and before his or her restoration retirement benefit commences to be paid, his or her beneficiary shall be entitled to a restoration death benefit as follows:
  - (A) If his or her beneficiary is entitled to receive any death benefit under the System, such beneficiary shall be entitled to receive as a restoration death benefit under the Benefit Restoration Plan an amount equal to the excess, if any, of:
    - (i) The amount of such death benefit under the System, determined without regard to the limitations on contributions and benefits imposed by Section 415 of the Internal Revenue Code, over
    - (ii) The actual amount of such death benefit under the System.

To the extent that the participant's accrued benefit or any death benefit payable under the System is increased at any time due to increases in the limitations on contributions and benefits imposed by Section 415 of the Internal Revenue Code, whether by statute, regulation, actions of the U.S. Secretary of the Treasury or his or her delegate or otherwise, the participant's restoration death benefit shall be reduced correspondingly.

- (g) Vesting. A participant's restoration retirement benefit or restoration death benefit, as the case may be, shall be vested at the time of his or her retirement under the System or death, but only to the extent, and determined in the manner, that such participant has a vested and non-forfeitable right to his or her retirement allowance under the System.
- (h) Payment of Benefits.
  - (1) Time and manner for payment of benefits. A participant's restoration retirement benefit, or the restoration death benefit, shall be payable at the same time and in the same manner as the participant's retirement allowance or comparable death benefit (other than his or her accumulated contributions or contribution refund death benefit) is paid under the System, whether as elected by the participant or otherwise payable. For a member who is receiving a retirement allowance under the System on the effective date, and who would immediately be an eligible member upon the effective date, such Member shall immediately commence receiving a restoration retirement benefit on a prospective basis.
  - (2) Discretionary use of other methods of payment. In the sole discretion of the Administrator, monthly payment amounts of less than \$100.00, or such amount as the Administrator may from time to time determine, may be paid on an annual or semi-annual basis, in arrears and without interest.
  - (3) Benefit determination and payment procedure. The Administrator shall make all determinations concerning eligibility for benefits under the Benefit Restoration Plan, the time or terms of payment, and the form or manner of payment to the participant (or the participant's beneficiary in the event of the death of the participant). The Administrator shall promptly notify the employer and, where payments are to be made from a grantor trust, the trustee thereof, of each such determination that benefit payments are due and provide to the employer or trustee such other information necessary to allow the employer or trustee to carry out said determination, whereupon the employer or trustee shall pay such benefits in accordance with the Administrator's determination.
  - (4) Payments to minors and incompetents. If a participant or beneficiary entitled to receive any benefits hereunder is a minor or is adjudged to be legally incapable of giving valid receipt and discharge for such benefits, or is deemed so by the Administrator, benefits shall be paid to such person as the Administrator may designate for the benefit of such participant or beneficiary. Such payments shall be considered a payment to such

participant or beneficiary and shall, to the extent made, be deemed a complete discharge of any liability for such payments under the Benefit Restoration Plan.

- (5) Distribution of benefit when distributee cannot be located. The Administrator shall make all reasonable attempts to determine the identity and/or whereabouts of a participant or his or her beneficiary entitled to benefits under the Benefit Restoration Plan, including the mailing by certified mail of a notice to the last known address shown on the employer's or the Administrator's records. If the Administrator is unable to locate such a person entitled to benefits hereunder, or if there has been no such claim made for such benefits, the employer shall continue to hold the benefit due such person, subject to any applicable statute of escheats.

(i) Funding.

- (1) The undertaking to pay the benefits hereunder shall be unfunded obligations payable solely from the general assets of the employer and subject to the claims of the employer's creditors.
- (2) Except as provided in a grantor trust established as permitted in Subsection (i)(3) of this Section, nothing contained in the Benefit Restoration Plan and no action taken pursuant to this Section shall create or be construed to create a trust of any kind of a fiduciary relationship between the employer and the participant or his or her beneficiary or any other person or to give any participant or beneficiary any right, title, or interest in any specific asset or assets of the employer. To the extent that any person acquires a right to receive payments from the employer under the Benefit Restoration Plan, such rights shall be no greater than the right of any unsecured general creditor of the employer.
- (3) Use of grantor trust permitted. Notwithstanding any provision of this Section to the contrary, the Benefit Restoration Plan Sponsor may in its sole discretion elect to establish and fund a grantor trust for the purpose of providing benefits under the Benefit Restoration Plan.

(j) Plan Administrator.

- (1) The Plan Administrator shall have full and complete authority and discretion to control and manage the operation of and shall decide all matters under the Benefit Restoration Plan pursuant to this Section and the enabling statute. The Administrator shall have any and all powers as may be necessary or advisable to discharge its duties under the Benefit Restoration Plan including the power and authority to interpret the terms of the Benefit Restoration Plan.
- (2) The Plan Administrator shall be responsible for performing the duties required for the operation of the Benefit Restoration Plan, and shall be responsible for supervising the performance of any other persons who may assist in the performance of the Plan Administrator's responsibilities under this Section and the enabling statute.
- (3) To enable the Plan Administrator to perform its responsibilities, employer(s) shall promptly provide to the Plan Administrator complete and accurate information on any matter that is required by the Administrator in order to make any decision or determination under the Benefit Restoration Plan. The Plan Administrator shall rely upon this information supplied by the employer, and shall have no duty or responsibility to verify this information.
- (4) Except as prohibited by law or by this Section, the Plan Administrator may delegate any of its duties to the Executive Director. The Plan Administrator may contract with any person to provide services to assist in the administration of the Benefit Restoration Plan. The Plan Administrator shall make such contracts in compliance with all applicable state and local laws and regulations. Any person other than the Plan Administrator who performs services regarding the Benefit Restoration Plan is subject to the supervision and direction of the Plan Administrator, and does not have the authority to control the operation of the Plan.

(k) Termination and amendment of Benefit Restoration Plan.



- (1) Termination. The Board of Supervisors hereby reserves the right to terminate the Benefit Restoration Plan at any time; provided, that no such termination shall reduce, suspend, or terminate the restoration retirement benefit or restoration death benefit otherwise payable to a participant or beneficiary hereunder as of the date of such termination.
- (2) Amendment. The Board of Supervisors hereby reserves the right to amend this Benefit Restoration Plan at any time; provided, that no such amendment shall reduce, suspend, or terminate the restoration retirement benefit or restoration death benefit otherwise payable to a participant or beneficiary hereunder as of the date of such amendment.

(l) Non-assignability.

The interests of each participant hereunder the Benefit Restoration Plan are not subject to the claims of the participant's creditors; and neither the participant nor his or her beneficiary, shall have any right to sell, assign, transfer, or otherwise convey the right to receive any payments hereunder or any interest under the Benefit Restoration Plan, which payments and interest are expressly declared to be non-assignable and non-transferable. Notwithstanding the foregoing, the Plan Administrator shall honor any process for a debt to the employer who has employed the participant and any administrative actions pursuant to Section 63.2-1900 et seq. of the *Virginia Code*, or any court process to enforce a child or spousal support obligation, in the manner as described in Section 3-3-7 mutatis mutandi. Restoration retirement benefits and/or restoration death benefits created under this Section which are deemed to be marital property pursuant to Section 20-89.1 et seq. of the *Virginia Code* may be divided or transferred by the court by direct assignment to a spouse or former spouse pursuant to Section 20-107.3 of the *Virginia Code*. Under no circumstances may a payment under this Subsection take place before the participant's benefit under the System is actually paid. (12-06-3; 3-16-3.)



December 13, 2017

Mr. Jeffrey Weiler  
Executive Director  
Fairfax County Retirement Systems  
12015 Lee Jackson Memorial Hwy  
Suite 350  
Fairfax, Virginia 22033

**Re: Adjustments to Service-Connected Disability Benefits**

Dear Jeff:

As requested, we have estimated the cost of eliminating the 5% offset of Social Security benefits for employees who retired or will retire from the Employees' or Uniformed Retirement System on service-connected disability. The cost impact is shown below for each of the Systems.

Please note that the cost impact includes an immediate payment of the increase in unfunded actuarial liability that was included in the first year only. There would be no on-going cost impact in normal cost for either the ERS or URS.

**Employees' Retirement System**

	<b>Valuation (5% Offset)</b>	<b>Study (Remove Offset)</b>	<b>Change</b>
Normal Cost	8.54%	8.54%	0.00%
UAL Amortization	3.42%	3.42%	0.00%
UAL Impact for Change	n/a	0.08%	0.08%
Expenses	0.25%	0.25%	0.00%
Total Base Rate	12.21%	12.29%	0.08%
Corridor Contribution Rate			
-- Amortize to 98%	26.47%	26.55%	0.08%
-- Amortize to 99%	27.14%	27.22%	0.08%
-- Amortize to 100%	27.80%	27.88%	0.08%
Unfunded Liability (in Millions)	\$1,436.8	\$1,437.4	\$0.6

**Uniformed Retirement System**

	<b>Valuation (5% Offset)</b>	<b>Study (Remove Offset)</b>	<b>Change</b>
Normal Cost	17.09%	17.09%	0.00%
UAL Amortization	5.60%	5.60%	0.00%
UAL Impact for Change Expenses	n/a	0.53%	0.53%
	<u>0.25%</u>	<u>0.25%</u>	<u>0.00%</u>
Total Base Rate	22.94%	23.47%	0.53%
Corridor Contribution Rate			
-- Amortize to 98% <sup>1</sup>	36.59%	37.12%	0.53%
-- Amortize to 99%	37.64%	38.17%	0.53%
-- Amortize to 100%	38.69%	39.22%	0.53%
Unfunded Liability (in Millions)	\$350.3	\$351.2	\$0.9

The valuation data does not provide the Social Security offset unless the benefit is currently being offset. For those whose offset was listed, we used the offset amount as if it were calculated as of the retirement date. This means, to restore the offset we adjusted the amount listed for COLA increases from the individuals retirement date through the valuation date. We had to make assumptions for those inactive members for whom no offset is listed. For inactive members under age 62 we estimated an offset (based on 5% of a projected PIA amount) to commence at age 62. For those older than 62 with no offset provided, we assumed no offset. Below is a breakdown of the data into the groups described above:

<u>System</u>	<u>Currently Offset</u>	<u>Offset Estimated Under 62</u>	<u>No Offset Over 62</u>
ERS	115	20	11
URS	95	25	12

These estimates were prepared as of June 30, 2017, using the same actuarial assumptions and methods as described in our June 30, 2017 actuarial valuation reports. The employee data used in this analysis was that provided for the 2017 valuation. The results are applicable only for the 2019 Fiscal Year.

I hereby certify that, to the best of my knowledge, this letter and its contents are complete and have been prepared in accordance with generally recognized and accepted actuarial principles and practices which are consistent with the Code of Professional Conduct and applicable Actuarial Standards of Practice set out by the Actuarial Standards Board. Furthermore, as a credentialed actuary, I meet the Qualification Standards of the American Academy of Actuaries to render the opinion contained in this report. This report does not address any contractual or legal issues. We are not attorneys and our firm does not provide any legal services or advice.

<sup>1</sup> The county has a policy of not paying any less than the existing rate until such a time as the UAL has been exhausted. The FY 2018 and FY 2019 rates have been held at the 38.83% rate in effect for FY 2017.

Mr. Jeffrey Weiler  
December 13, 2017  
Page 3

Please call if you have any questions or comments.

Sincerely,  
Cheiron

A handwritten signature in blue ink, reading "Fiona E. Liston".

Fiona E. Liston, FSA, EA  
Principal Consulting Actuary

cc: Coralie A. Taylor, FSA, EA  
Patrick T. Nelson, ASA, EA



Board Agenda Item  
July 10, 2018

4:00 p.m.

Public Hearing to Consider Adopting an Ordinance Expanding the Herndon Residential Permit Parking District, District 26 (Dranesville District)

ISSUE:

Public Hearing to consider a proposed amendment to Appendix G, of *The Code of the County of Fairfax, Virginia* (Fairfax County Code), to expand the Herndon Residential Permit Parking District (RPPD), District 26.

RECOMMENDATION:

The County Executive recommends that the Board adopt an amendment (Attachment I) to Appendix G, of the Fairfax County Code, to expand the Herndon RPPD, District 26.

TIMING:

On June 5, 2018, the Board authorized a Public Hearing to consider the proposed amendment to Appendix G, of the Fairfax County Code, to take place on July 10, 2018, at 4:00 p.m.

BACKGROUND:

Section 82-5A-4(a) of *The Code of the County of Fairfax, Virginia*, authorizes the Board to establish RPPD restrictions encompassing an area within 2,000 feet walking distance from the pedestrian entrances and/or 1,000 feet from the property boundaries of an existing or proposed high school, existing or proposed rail station, or existing Virginia college or university campus if: (1) the Board receives a petition requesting the establishment or expansion of such a District, (2) such petition contains signatures representing at least 60 percent of the eligible addresses of the proposed District and representing more than 50 percent of the eligible addresses on each block face of the proposed District, and (3) the Board determines that 75 percent of the land abutting each block within the proposed District is developed residential. In addition, an application fee of \$10 per address is required for the establishment or expansion of an RPPD.

Board Agenda Item  
July 10, 2018

Staff has verified that the petitioning block is within 1,000 feet from the property boundary of Herndon High School, and all other requirements to expand the RPPD have been met.

FISCAL IMPACT:

The cost of sign installation is estimated to be \$200. It will be paid from Fairfax County Department of Transportation funds.

ENCLOSED DOCUMENTS:

Attachment I: Proposed Amendment to the Fairfax County Code

Attachment II: Map Depicting Proposed Limits of RPPD Expansion

STAFF:

Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)

Eric Teitelman, Chief, Capital Projects and Traffic Engineering Division, FCDOT

Neil Freschman, Chief, Traffic Engineering Section, FCDOT

Henri Stein McCartney, Sr. Transportation Planner, FCDOT

Charisse Padilla, Transportation Planner, FCDOT

ASSIGNED COUNCIL:

F. Hayden Coddington, Assistant County Attorney

Proposed Amendment

Amend *The Code of the County of Fairfax, Virginia*, by adding the following streets in Appendix G-26, Section (b), (2), Herndon Residential Permit Parking District, in accordance with Article 5A of Chapter 82:

*Kings Valley Court (Route 10369):*

From Kingstream Circle to the cul-de-sac inclusive



Fairfax County  
Department of Transportation  
Residential Permit Parking District  
Herndon (26)  
Dranesville District



Tax Map: 11-1

Herndon  
High School

PARKING LOT

EDDYSPARK DR

KINGSTREAM CIR

MEADOWSTREAM CT

Tax Map: 11-3

WOODYALE CT

..... Proposed RPPD Restriction  
— Existing Herndon RPPD Restriction



**To be Deferred to  
September 25, 2018**

Board Agenda Item  
July 10, 2018

4:00 p.m.

Public Hearing on SEA 99-P-046-02 (Flint Hill School) to Amend SE 99-P-046  
Previously Approved for a Private School of General Education to Permit the  
Construction of a Middle School Resulting in an Increase in Enrollment from 700 to 800  
and Associated Modifications to Site Design and Development Conditions, Located on  
Approximately 35.16 Acres of Land Zoned R-1 (Providence District) (Associated with  
SEA 84-P-105-04)

and

Public Hearing on SEA 84-P-105-04 (Flint Hill School) to Amend SE 84-P-105  
Previously Approved for a Private School of General Education to Permit a Decrease in  
Enrollment from 700 to 500, Located on Approximately 14.7 Acres of Land Zoned R-3  
(Providence District) (Associated with SEA 99-P-046-02)

This property is located at 10900, 10910, 10824, 10816 Oakton Road and 3400, 3320, 3310, 3300, 3308 and 3408 Germantown Road, Oakton, 22124. Tax Map 47-3 ((1)) 16B, 17A, 18, 19, 19A, 20, 20A, 20B, 21A, 22, 22A, 23, 24, 34A, 34B, 34C.

This property is located 3012 Chain Bridge Road, 10429 & 10431 Miller Road and 3044 Germantown Road, Oakton, 22124. Tax Map 47-2 ((1)) 36A, 37, 38 and 52A.

This public hearing was deferred by the Board at the June 5, 2018 meeting until July 10, 2018 at 4:00 p.m.

**PLANNING COMMISSION RECOMMENDATION:**

The Planning Commission public hearing was deferred from May 17, 2018 until June 28, 2018; decision was deferred to July 12, 2018. The Commission's recommendation will be forwarded to the Board of Supervisors subsequent to that date.

**ENCLOSED DOCUMENTS:**

Planning Commission Verbatim Excerpt (to be provided after the PC hearing) and Staff Report available online at:

<https://www.fairfaxcounty.gov/planning-zoning/zoning-application-board-packages-fairfax-county-board-supervisors>

**To be Deferred to  
September 25, 2018**

Board Agenda Item  
July 10, 2018

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)  
Kelly Posusney, Planner, DPZ

Board Agenda Item  
July 10, 2018

4:30 p.m.

Public Hearing on RZ 2017-MA-013 (Vulcan Materials Company, LLC) to Rezone from R-2 and C-8 to I-6 to Permit Heavy Industrial Use with an Overall Floor Area Ratio of 0.02, Located on Approximately 41,151 Square Feet of Land (Mason District) (Concurrent with SE 2017-MA-009)

and

Public Hearing on SE 2017-MA-009 (Vulcan Materials Company, LLC) to Permit Heavy Industrial Use and Increase in Building Height from 75 Feet up to a Maximum of 135 Feet and Vacation and/or Abandonment of Right-of-Way, Located on Approximately 93.73 Acres of Land Zoned I-6 (Mason District) (Concurrent with RZ 2017-MA-013)

This property is located on the East side of Industrial Drive at the ramp to enter Interstate 395, Springfield, 22151. Tax Map 80-2 ((1)) 38 (pt.).

This property is located at 5650 Industrial Drive, Springfield, 22151. Tax Map 80-2 ((1)) 38 (pt.).

The Board of Supervisors deferred this public hearing on February 6, 2018 until March 6, 2018 at 3:30 p.m.; and then to May 1, 2018 at 4:30 p.m.; and again to July 10, 2018, at 4:30 p.m.

PLANNING COMMISSION RECOMMENDATION:

On June 14, 2018, the Planning Commission voted 11-0 (Commissioner Clarke was absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of RZ 2017-MA-013, subject to the proffers consistent with those dated May 8, 2018;
- Approval of SE 2017-MA-009, subject to the proposed development conditions dated June 1, 2018, with the addition of the following condition:
  - No signals, lights, or illumination over 75 feet in height will be permitted on any of the silo structures; except if required by local, state, or federal authorities. This is not intended to preclude emergency maintenance lighting or repairs, in accordance with the requirements of the Zoning Ordinance.

Board Agenda Item  
July 10, 2018

- Approval of a modification of Section 17-201(2) of the Zoning Ordinance for the construction of a major regional and paved trail as depicted on the GDP/SE Plat;
- Approval of a modification of Article 13 of the Zoning Ordinance to provide transitional screening and landscaping as depicted on the GDP/SE Plat, and to be able to utilize the portion of parcel 80-2 ((1)) 0038 outside of the rezoning and special exception application areas for transitional screening and landscaping;
- Approval of a modification of Section 17-201(4) of the Zoning Ordinance to permit dedication, construction, or widening of existing roads as depicted on the GDP/SE Plat;
- Approval of a modification of Section 17-201(3)(B) of the Zoning Ordinance to permit the construction of a vehicular travel lane, service drive, driveway, or other access connections as depicted on the GDP/SE Plat;
- Approval of a modification of Section 17-201(1) of the Zoning Ordinance to provide delineated pedestrian walkways between uses/buildings as depicted on the GDP/SE Plat; and
- Approval of a waiver of Section 17-201(3)(B) of the Zoning Ordinance for the requirement to provide inter-parcel parcel access to adjoining parcels.

ENCLOSED DOCUMENTS:

Planning Commission Verbatim Excerpt and Staff Report available online at:  
<https://www.fairfaxcounty.gov/planning-zoning/zoning-application-board-packages-fairfax-county-board-supervisors>

STAFF:

Tracy Strunk, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)  
Jay Rodenbeck, Planner, DPZ

Board Agenda Item  
July 10, 2018

4:30 p.m.

Public Hearing on a Proposed Zoning Ordinance Amendment Re: Short-Term Lodging Uses (Residential Owner/Renter Operated Dwelling Only) and a Proposed Amendment to Chapter 4 of the Fairfax County Code

ISSUE:

The proposed Zoning Ordinance Amendment is on the 2017 Priority 1 Zoning Ordinance Amendment Work Program (ZOAWP), as part of the review of state code changes. In 2017, the General Assembly enacted Virginia Code § 15.2-983, affirming a locality's right to regulate the short-term rental of property through its general land use and zoning authority. As a result of this law, on March 14, 2017, the Board of Supervisors (Board) directed staff to form a workgroup to analyze the short-term rental of property in Fairfax County and recommend possible changes to the County Code and Zoning Ordinance.

PLANNING COMMISSION RECOMMENDATION:

On June 21, 2018, the Planning Commission voted 12-0 to recommend to the Board of Supervisors the following actions:

- Adoption of the staff recommendation for the Zoning Ordinance Amendment titled "Short-Term Lodging for Residential Owner/Renter Operated Dwellings Only," as set forth in the staff report dated March 20, 2018, with the following changes to proposed Section 10-105:
  - Add a new Paragraph 2. E to read as follows:
    - E. Have one designated parking space available for lodgers, which the Operator has the authority to reserve for Short-Term Lodging purposes.
  - Revise Paragraph 4. A to read as follows:
    - A. A dwelling or mobile home may be used for Short-Term Lodging for no more than fifteen nights per year during which the operator is not present. Short-Term Lodging may also be conducted for an additional thirty nights, for a potential total of forty-five nights, if the

operator is present for all short-term lodging stays exceeding fifteen.

- Revise Paragraph 4. B to read as follows:  
B. The maximum number of lodgers per night may not exceed four adults except where the Virginia Uniform Statewide Building Code provides for a lower maximum occupancy.
- Revise Paragraph 4. E to read as follows:  
E. All advertisements for Short-Term Lodging posted on any platform online or in any other format must (1) include the Short-Term Lodging Permit Number and (2) identify the location of the parking space required by Paragraph 2. E and any other available parking or public transportation options.
- Support for the staff recommendation for the other options including:
  - Limiting the number of rental contracts to one;
  - Providing that a Short-Term Lodging Permit fee is \$200 for a two-year permit; and
  - Reducing the fee for a bed and breakfast special exception application from \$16,375 to \$8,180.
- That the Zoning Ordinance Amendment have an effective date of 12:01 a.m., October 1, 2018. This delayed effective date will give staff time to notify the public about these new amendments, and give the public time to come into compliance.

In addition, the Planning Commission voted 12-0 to recommend to the Board of Supervisors the following actions:

- That staff be directed to prepare an expedited follow-up Zoning Ordinance Amendment for authorization to permit the consideration of the following additional options:
  - Establishment of a special permit process to allow an operator to request additional nights per year with or without the operator present, and or increase the number of adult lodgers permitted per rental contract. The special permit option should be advertised to include a requirement for a fire

and safety inspection, including an appropriate fee for such an inspection and a special permit fee of not less than \$910; and

- In accordance with *Virginia Code* Section 15.2-2286 (A) (4), limiting to ten days the appeal period for a notice of violation citing violations of the Short-Term Lodging Ordinance, rather than the thirty days currently authorized.
- That the Board of Supervisors direct staff to:
  - Require that any application for a Short-Term Lodging permit be notarized so that each operator affirms that the all of the information provided in the permit application is true and correct under penalty of perjury;
  - Monitor the Short-Term Lodging activity and recommend any necessary changes to the Board's current enforcement policy including, but not limited to, evaluating whether a special staff team should be tasked with investigating complaints and monitoring compliance;
  - Report to the Planning Commission and Board of Supervisors twelve or eighteen months after the effective date to recommend amendments to the ordinance or to the Board's enforcement policy, if such changes are necessary; and
  - Explore the possibility of entering into an agreement with the three major hosting platforms, Airbnb, VRBO, and Flip Key, to remove non-compliant operators from those platforms.

RECOMMENDATION:

The County Executive recommends the Board adopt a Short-Term Lodging Ordinance with a delayed effective date of 12:01 a.m. October 1, 2018. A comparison table that outlines the differences between the staff recommendation as set forth in the Staff Report dated March 20, 2018, the Commission's recommendation and the range of advertised options is enclosed for the Board's consideration. (See Attachment 3)

The County Executive further recommends approval of the proposed amendment to Chapter 4 of the County Code relating to Business, Professional and Occupational

Board Agenda Item  
July 10, 2018

License Tax and Transient Occupancy Tax as set forth in Attachment D of the Staff Report with a delayed effective date of 12:01 a.m. October 1, 2018.

TIMING:

Board of Supervisor's authorization to advertise – March 20, 2018; Planning Commission public hearing – May 3, 2018, decision deferred to May 17, 2018; May 24, 2018, June 14, 2018 and June 21, 2018; Board of Supervisor's public hearing – June 19, 2018, at 4:00 p.m., deferred to July 10, 2018, at 4:30 p.m.

BACKGROUND:

The rise in popularity of online hosting platforms such as AirBnB, Vacation Rental by Owner (VRBO), HomeAway, TripAdvisor, and FlipKey has encouraged many homeowners and renters to offer their homes for transient lodging. Individual rooms within a dwelling or entire dwellings are offered for a fee for periods of less than thirty days, and the search, booking, and fee collection components are typically handled by the hosting platform. This emergent economic model has presented regulatory challenges related to land use and other matters in many jurisdictions in Virginia and nationwide.

In 2017, the General Assembly enacted Virginia Code § 15.2-983, affirming a locality's right to regulate the short-term rental of property through its general land use and zoning authority. As a result of this law, on March 14, 2017, the Board of Supervisors (Board) directed staff to form a workgroup to analyze the short-term rental of property in Fairfax County and recommend possible changes to the County Code and Zoning Ordinance. Staff from the Department of Planning and Zoning (DPZ), the Department of Code Compliance (DCC), the Department of Tax Administration (DTA), the County Attorney's Office (OCA), the County Executive's Office (CEO) and the Office of Public Affairs (OPA) comprised the County's workgroup.

Beginning in June of 2017, staff conducted extensive public outreach and solicited input on a potential amendment to the Zoning Ordinance using a variety of outreach tools including an on-line survey, four County-wide community meetings held in the Community Centers in Reston, McLean, Mount Vernon and at the Government Center, and an open house. Staff also developed a dedicated website for the amendment. The proposed regulations reflect consideration of all the input and feedback received from these various sources.

Staff determined that there are different arrangements of transient housing offered by County businesses and residents. While staff may propose further ordinance changes, particularly with regard to transient occupancy in commercially managed multiple family rental developments, **the Zoning Ordinance amendments presented in this Staff**



**Report reflect only Short-Term Lodging (STL) conducted by an owner or renter in his or her permanent residence.**

These proposed amendments to the Zoning Ordinance and the County Code create regulations to address STL operations in terms of both zoning and taxation. Staff presented the general framework for the amendment to the Board's Development Process Committee (DPC) on July 18, October 3, and December 12, 2017, and to the Planning Commission's Land Use Process Review Committee (LUPRC) on June 22 and September 28, 2017. Additionally, the Planning Commission held a public workshop on November 1, 2017 to discuss that framework.

A more detailed discussion of the proposed amendment to the Zoning Ordinance is set forth in the Staff Report enclosed as Attachment 4.

The workgroup also determined that certain amendments will be required to Chapter 4 of the Fairfax County Code relating to taxation. Section 4-13-1 will be amended to clarify that any place that offers Short-Term Lodging, as defined in the proposed amendment to the Zoning Ordinance, is included within the definition of Hotel and the amendment reduces the definition's requirement that lodging be offered to four or more persons to simply require that the lodging be offered to one or more persons. The proposed amendment will also modify the definition of transient to ensure compliance with the Virginia Code. In addition, staff proposes that the Fairfax County Code be amended to require Hotels to report and remit their Transient Occupancy Tax on a monthly basis. The Fairfax County Code currently only requires that this tax be remitted on a quarterly basis. Finally, staff proposes certain formatting changes to the tax ordinance, all of which is set forth in Attachment D of the Staff Report dated March 20, 2018.

**REGULATORY IMPACT:**

The proposed regulations are intended to allow limited STL operations in Fairfax County, balancing the interests of residents in protecting the character of their neighborhoods with the interest of residents who want to operate STLs in their residences. In crafting the restrictions on STL use, staff took into consideration the particular concerns citizens and stakeholders voiced during the outreach process. Staff proposes to create an STL permit valid for a period of two years with a permit fee of \$200. Staff originally proposed a grace period between 90 and 120 days from the date of adoption for STL Operators to obtain approval of an STL permit. However, given the

companion changes to Chapter 4, which has a proposed effective date of October 1, 2018, staff now recommends a delayed effective date of October 1, 2018.

**FISCAL IMPACT:**

Based on an average of 64 nights of occupancy at \$72/night rental rate, and full compliance from the 1,549 currently active listings, staff estimates collecting \$428,268 in annual Transient Occupancy Tax (TOT) revenue. The total TOT in Fairfax County is calculated at the rate of 6 percent (2 percent for general transient occupancy tax + 2 percent for tourism + 2 percent for regional transportation) on the gross room rental charged for overnight stays related to transient occupancy. As required by state legislation, of the revenue generated by the 2 percent for tourism, one quarter is designated to the Fairfax County Convention and Visitors' Center, and the rest is used by the County to promote tourism. As a result, of the total projected \$428,268, \$142,756 will be allocated for regional transportation, \$35,689 to Fairfax County Convention and Visitors' Center, and \$249,823 to the County's General Fund. Additionally, based on the \$200 STL permit fee, estimated revenue of approximately \$150,000 could be generated annually. If the Board adopts the Planning Commission's recommendation, and average occupancy correspondingly diminishes, the total anticipated tax revenue will decrease. Compare:

	<b>Current estimated average of 64 nights annually</b>	<b>Commission's recommended 45 nights annually</b>
Average Nightly Rate	\$72	\$72
TOT Revenue	\$428,268	\$301,126
Regional Transportation	\$142,756	\$100,375
Convention/Visitors Center	\$35,689	\$25,094
General Fund	\$249,823	\$175,657

The estimated fiscal impacts has not been reflected in the FY 2019 Advertised Budget Plan estimates and will be included as part of a future budget review process, pending Board approval, along with associated implementation costs.

**ENCLOSED DOCUMENT:**

Attachment 1 – Verbatim Copy of Planning Commission Report  
Attachment 2 – Text of Planning Commission Preferred Regulations  
Attachment 3 – Comparison Table of staff's recommendation, advertised options and Planning Commission recommendation  
Attachment 4 – Staff Report dated March 20, 2018

Board Agenda Item  
July 10, 2018

STAFF:

Robert A. Stalzer, Deputy County Executive  
Fred Selden, Director, Department of Planning and Zoning (DPZ)  
Leslie B. Johnson, Zoning Administrator, DPZ  
Donna Pesto, Deputy Zoning Administrator, DPZ  
Lily Yegazu, Senior Assistant to the Zoning Administrator, DPZ  
Jay Doshi, Director, Department of Tax Administration (DTA)  
Juan Rengel, Director, Personal Property and Business License Assessments Division, DTA

ASSIGNED COUNSEL:

Sarah Hensley, Assistant County Attorney  
Daniel Robinson, Assistant County Attorney

**County of Fairfax, Virginia  
Planning Commission Meeting  
June 21, 2018  
Verbatim Excerpt**

ZONING ORDINANCE AMENDMENT – SHORT TERM LODGING – NOTICE is hereby given that the Fairfax County Planning Commission will hold a PUBLIC HEARING on in the Board Auditorium, Lobby Level, Government Center Building, 12000 Government Center Parkway, Fairfax, Virginia, on the matter of an amendment to Chapter 112 (the Zoning Ordinance) of the 1976 Code of the County of Fairfax, as follows:

- (1) Amend Sect. 20-300 to include new definitions for short-term lodging (STL) and transient occupancy and to revise the existing definitions of dwelling and mobile home to include short-term lodging as the only transient occupancy allowed as an accessory use in a dwelling or mobile home.
- (2) Amend Sect. 10-102 to include short-term lodging as a new permitted accessory use.
- (3) Add a new Sect. 10-105 to include definitions and use limitations related to short-term lodging. Specifically:
  - a) Provide definitions for authorized agent, permanent resident, and short-term lodging operator.
  - b) Provide regulations applicable to the dwelling or mobile home including, but not limited to requiring it to be open for inspection by County personnel during reasonable hours, to comply with the life safety requirements of the applicable version of the Virginia Uniform Statewide Building or Virginia Manufactured Home Safety Regulations.
  - c) Provide regulations applicable to the short-term lodging operator including, but not limited to, being a permanent resident of the property, obtaining written consent from the owner of the property (if short-term lodging operator is a renter), and designating an Authorized Agent. [Options: Require the short-term lodging operator to be present during any rental for transient occupancy; or to establish additional requirements related to the Authorized Agent's physical proximity or response time to any issues or emergencies that may arise at the STL when the Operator is not present.]
  - d) Provide regulations applicable to the short-term lodging use including but not limited to:
    - i. Limit the number of nights a dwelling or a mobile home may be rented to not more than 90 nights per calendar year. [Option: Allow a maximum of 180 nights per year and require any number of nights in which the STL Operator must be present during an STL rental from 0 to 180 per year.]
    - ii. Limit the number of lodgers per night to a maximum of 6 adults, except where the Virginia Uniform Statewide Building Code requires fewer occupants. [Option: Allow unlimited occupancy, except as limited by the Virginia Uniform Statewide Building Code.]
    - iii. Limit the number of rental contracts per night to a maximum of one. [Option: Allow up to 5 contracts per night.]

- iv. *Prohibit events and commercial activities in association with any short-term lodging.*
  - v. *Require advertisements, regardless of whether they are posted on any online platform to (i) include the short-term lodging permit number and (ii) identify where lodgers can legally park or state that parking is not available. [Option: Require up to 2 off-street parking spaces per contract.]*
  - vi. *Require a guest log to be maintained and made available upon request to any County employee enforcing the Zoning Ordinance and all other applicable County Codes.*
  - vii. *Prohibit short-term lodging in a detached accessory structure, accessory dwelling unit, temporary family health care structure, affordable dwelling unit or workforce dwelling unit.*
- e) *Require issuance of a revocable short-term lodging permit by the Zoning Administrator, valid for a two year period and with a \$200 permit fee. [Option: Permit fee from \$50 to \$250 and a range of permit validity from 1 to 2 years.]*
- (4) *Amend Article 18 to add short-term lodging fee to the list of uses under Par. 5 and to reduce the existing special exception fee for a Bed and Breakfast application from \$16,375 to \$8,180. [Option: Bed and Breakfast fee from \$4,085 to \$16,375.] (Countywide)*

#### Decision Only During Commission Matters

(Public Hearing held on May 3, 2018; Decision only from May 17, 2018; Decision only from May 24, 2018; Decision only from June 14, 2018)

Commissioner Hart: Thank you, Mr. Chairman. On May 3<sup>rd</sup>, the Commission held a public hearing on the Short-Term Lodging Zoning Ordinance Amendment and deferred decision three times. Tonight, we make our recommendations to the Board of Supervisors. We may not have reached complete agreement and we may not necessarily be finished with this topic, but I believe we've reached a point where we can pass the item along to the Board with several constructive suggestions. I've circulated this week two proposed motions to the Commission which went through several iterations. And tonight, I intend to move the first scenario, adoption in part, of a limited by-right use, coupled with a recommendation for advertisement of additional changes and follow-on motions. I intend to elaborate on some of the rationale for this motion. First, I wanna thank all the citizens who participated in this process over the past several months, responding to the online surveys, speaking at public meetings or public hearing and submitting correspondence. We generally want to engage the community in the Zoning Ordinance Work Program discussions and on this topic, we have received a great deal of input from a variety of perspectives. I also want to thank our staff team, and many of them are here tonight, particularly the Zoning Administrator, Leslie Johnson, also Donna Pesto, Lily Yegazu, Sara Morgan, Charles Fitzhugh and also Sarah Hensley in the County Attorney's office. Many of them worked very late hours on the various stages of this project. Staff did an unprecedented amount of citizen outreach, including meetings around the County. We also received responses and comments from over seven thousand residents. This was an extraordinary complicated project and to me it seemed to get more difficult the further we progressed. I wanna thank also my colleagues on the Commission for their comments and suggestions which are added much to the level of review. I

think all eleven of my colleagues have weighed in each adding something different to the discussion. And we certainly have a wide array of opinions and questions to consider. This amendment has also generated considerable opposition, and there may not be a consensus in the community either to allow a short-term rental use, or even if we allow it, what constraints on the use may be admissible or appropriate. The Commission's skepticism with this topic, to some extent, mirrors the division in the community and the difficulty with identifying appropriate or permissible language that would satisfactorily mitigate impacts on residential neighborhoods. I sympathize with many of the observations about protecting residential communities, and agree that we ought not simply introduce a boarding house use or motel use by-right across the board. At the same time, I agree that many County residents have successfully utilized and enjoyed short-term lodging elsewhere, and other communities have allowed them without destroying the character of residential districts. Many County residents will act responsibly, if allowed the opportunity to serve as STL hosts here, without bothering their neighbors. STLs also may allow some of our residents the opportunity to earn supplemental income and interact with interesting guests from all over the world, promote Fairfax County as a tourist destination among other benefits. With that in mind, the Board directed staff to evaluate this use and make appropriate recommendations. Identifying how a conceptual short-term lodging use should be specifically defined; however, has proven difficult. We have at least two groups of opposition. One group opposed to the use by-right in residential districts and another extreme opposed to any regulation of rentals at all. In the middle, we have other folks who either support the use or support it subject to certain limitations, some of which we've learned are impermissible from beyond the scope of the advertising. In my view, part of the difficulty with the proposed amendment is that we are attempting to craft a "one-size fits all" approach, allowing the same use with the same numbers for every type of residential unit, from studio apartments to five-acre lots. But the impacts of a short-term lodging unit on a five-acre lot with plenty of room for parking and separation from neighbors may be very different, compared to a townhouse community with party walls and limited parking, or a condominium with many neighbors in close proximity. I believe that through this process, the Commission has generally reached a consensus that the numbers that were advertised may be too high for a by-right use everywhere and that more modest numbers might help mitigate the impacts. Above this baseline, I believe a case-by-case review may be more appropriate to allow for a public hearing and imposition of development conditions, with a specific evaluation of the context. This approach would allow more flexibility for going above these base-line numbers on appropriate properties, without severely impacting neighborhoods. We also handled other analogous uses in residential neighborhoods, such as home child care or home professional office, for example a dentist or an accountant, through these procedures now. And that seems to me to be an appropriate methodology for evaluating the impacts, how they should be mitigated case by case. Some uses will work in some houses, but if the application property is a townhouse with limited parking, or house at the end of a court, all mailboxes and driveways with no parking and pie-shaped front yards, the impacts of comings and goings in a small space may be magnified, and neighbors may have more concerns. I will have a follow-on motion on that topic. I had hoped tonight to make an elegant motion neatly resolving all the loose ends which may be impossible, but; in a legislative process, perfection may be impossible to achieve. A number of years ago, in what might be described as a – a spirited discussion with our former Chairman, now Congressman Connolly, I felt compelled to point out, correctly, the numerous deficiencies in whatever the proposal on the table was. Nevertheless, paraphrasing Voltaire, the Chairman reminded me that we cannot let the perfect be the enemy of the good. That lesson may apply here. We may not have a perfect solution, but I think we can go forward to the Board with what we have at this point, monitor it, and make

adjustments if appropriate. Ultimately, I have concluded, with staff's guidance, that a limited by-right use across the board, could be implemented, coupled with several follow-on motions proposing additional options. My motion will propose limiting the by-right short-term lodging use to forty-five days, with a maximum of fifteen without the operator present, limiting the use to four adults with one contract only and requiring one parking space. I believe this an appropriate range for an initial by-right use at this time. I recognize the package is a compromise, but based on a logical vetting of the proposal. We may not all agree on these numbers, but if this baseline use can be adopted, we can evaluate it for twelve or eighteen months and make appropriate adjustments. I recognize also enforcement is a very difficult aspect of this amendment. At the outset, I wanna try and separate the issues of home – homeowner association covenants from zoning. We've been repeatedly urged to consider homeowners associations and their covenants or rules in some fashion, including specific requests that these permits be denied in any community, where the homeowners association rules prohibit short-term rentals. But the topic of covenants has come up many times before on Zoning Ordinance amendments, and we have never gone there. Fairfax County cannot get in the middle of private agreements between private parties, and cannot consider homeowners association covenants or rules in this context. The Commission, the Board of Supervisors and staff, are in no position to make any binding determinations whatsoever about the existence, validity, meaning or enforceability of purported covenants or rules. We leave those decisions to courts and judges where they belong. The County has no idea whether for a given community there are covenants or HOA rules, whether they've been amended, whether they were properly adopted, whether they applied to some or all of the lots. We have no idea whether any required procedures were followed, whether paperwork was properly prepared and signed. If there was a meeting, we don't know if there was a quorum, proper notice sent out in advance; whether the votes were properly conducted or how the arithmetic was handled. We don't know the number of votes required in a subdivision, whether you count the sections separately or together; whether both the husband and wife have to vote or sign; whether any of the original lots were subdivided and whether that changes the arithmetic. It would be highly inappropriate for us to wade into those issues, or even worse let staff at the counter try and puzzle through those questions. If the language of a restriction is disputed, a judge needs to make a ruling as to what means. And more importantly, the homeowners association or an affected resident needs to take the initiative on their own dime. It would be highly inappropriate for the County to spend taxpayer money taking sides in any homeowners association enforcement dispute. Nevertheless, this proposed ordinance in no way diminishes the right of any homeowners association or any individual resident to seek appropriate judicial relief, whether a binding determination about the existence, meaning or enforceability of a purported restriction or to enforce any such restriction. Nor does the ordinance limit in any way the ability of an association to modify its existing rules or adopt new ones in accordance with their procedures and existing laws. Homeowners associations and citizens remain free to exercise their rights in that regard and the County is not going to impair those rights. With respect to enforcement generally, there are limitations on what we can do. There will not be additional employees or funds budgeted in this Zoning Ordinance amendment. There will not be a weekend SWAT team or instant enforcement. Complaints will be handled according to our established procedures like any other zoning violation. If a complaint is received, staff will investigate and follow the existing protocol. If a complaint is determined to be founded, ordinarily a letter goes out and that starts the appeal deadlines running, like any other zoning violation. Our zoning enforcement team is very conscientious and works very hard to stay on top of the complaints that come in. We will continue to monitor the effectiveness of our enforcement. I do believe that consideration of a shorter appeal period, ten days rather than

thirty days, analogous to what we do on boarding houses, may be more appropriate and I will have a follow-on motion on that topic as well. Staff also has indicated, that through a contract with Host Compliance, Fairfax County now will have more helpful information to assist with enforcement in this regard. I do believe that Fairfax County probably can do more to facilitate effective enforcement and one of my follow-on motions also addresses that project. In addition, the execution of the application form under oath will assist staff and the County Attorney's office with enforcement. While this package as expressed in the first motion may not be a perfect solution and may not please everyone, I believe the Commission has done its job and given the topic a thorough vetting. I think this is a logical and appropriate recommendation to the Board at this time. Therefore, Mr. Chairman, I MOVE, FIRST, THAT THE PLANNING COMMISSION RECOMMEND ADOPTION OF STAFF'S RECOMMENDATION FOR THE ZONING ORDINANCE AMENDMENT TITLED "SHORT-TERM LODGING FOR RESIDENTIAL OWNER/RENTER OPERATED DWELLINGS ONLY," AS SET FORTH IN THE STAFF REPORT DATED MARCH 20, 2018, WITH THE FOLLOWING CHANGES TO PROPOSED SECTION 10-105:

1. IN PARAGRAPH 2 WHICH READS "A DWELLING OR MOBILE HOME USED FOR SHORT-TERM LODGING MUST" AND CONTINUES – ADD A NEW PARAGRAPH 2. E TO READ AS FOLLOWS:
  - E. HAVE ONE DESIGNATED PARKING SPACE AVAILABLE FOR LODGERS, WHICH THE OPERATOR HAS THE AUTHORITY TO RESERVE FOR SHORT-TERM LODGING PURPOSES.
2. REVISE PARAGRAPH 4. A TO READ AS FOLLOWS:
  - A. A DWELLING OR MOBILE HOME MAY BE USED FOR SHORT-TERM LODGING FOR NO MORE THAN FIFTEEN NIGHTS PER YEAR DURING WHICH THE OPERATOR IS NOT PRESENT. SHORT-TERM LODGING MAY ALSO BE CONDUCTED FOR AN ADDITIONAL THIRTY NIGHTS, FOR A POTENTIAL TOTAL OF FORTY-FIVE NIGHTS, IF THE OPERATOR IS PRESENT FOR ALL SHORT-TERM LODGING STAYS EXCEEDING FIFTEEN.
3. REVISE PARAGRAPH 4. B TO READ AS FOLLOWS:
  - B. THE MAXIMUM NUMBER OF LODGERS PER NIGHT MAY NOT EXCEED FOUR ADULTS EXCEPT WHERE THE VIRGINIA UNIFORM STATEWIDE BUILDING CODE PROVIDES FOR A LOWER MAXIMUM OCCUPANCY.
4. REVISE PARAGRAPH 4. E TO READ AS FOLLOWS:
  - E. ALL ADVERTISEMENTS FOR SHORT-TERM LODGING POSTED ON ANY PLATFORM ONLINE OR IN ANY OTHER FORMAT MUST (1) INCLUDE THE SHORT-TERM LODGING PERMIT NUMBER AND (2) IDENTIFY THE LODGING – excuse me – IDENTIFY THE LOCATION OF THE PARKING SPACE REQUIRED BY PARAGRAPH 2. E AND ANY OTHER AVAILABLE PARKING OR PUBLIC TRANSPORTATION OPTIONS.



I MOVE THAT THE PLANNING COMMISSION SUPPORT THE STAFF RECOMMENDATION FOR THE OTHER OPTIONS INCLUDING:

- LIMITING THE NUMBER OF RENTAL CONTRACTS TO ONE;
- PROVIDING THAT A SHORT-TERM LODGING PERMIT FEE IS \$200 FOR A TWO-YEAR PERMIT; AND
- REDUCING THE FEE FOR A BED AND BREAKFAST SPECIAL EXCEPTION APPLICATION FROM \$16,375 TO \$8,180.

I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD THAT THE ZONING ORDINANCE AMENDMENT HAVE AN EFFECTIVE DATE OF 12:01 A.M., OCTOBER 1, 2018. THIS DELAYED EFFECTIVE DATE WILL GIVE STAFF TIME TO NOTIFY THE PUBLIC ABOUT THESE NEW AMENDMENTS, AND GIVE THE PUBLIC TIME TO COME INTO COMPLIANCE.

Commissioner Hurley: Second.

Commissioner Hart: And then I will have some follow-on motions also.

Commissioners Hurley and Ulfelder: Second.

Chairman Murphy: Seconded by Ms. Hurley and Mr. Ulfelder. Is there a discussion of the motion? Mr. Migliaccio.

Commissioner Migliaccio: Thank you, Mr. Chairman. As with many of our fellow Commissioners, we've been struggling with this and I want to get to a "yes" and I'm still at this point struggling. I understand that this is a very complicated issue to – I mean it's very obvious after that lengthy discussion by Mr. Hart – motion. But what we have in place right now with the County is not workable. It penalizes good citizens who are simply trying to supplement their income and abide by the rules that right now do not exist so we need to get something in place. My concern is not with the good actors, is with the bad actors and how they impact our stable neighborhoods and how we can achieve – how we can enforce our rules. We're not able to do that right now – we never seem to be able to do that. Therefore, I have one simple amendment that I would like to add on to Commissioner Hart's is – I think will help with the enforcement especially during the twelve to eighteen-month period when we're starting out with this. And if we're starting out and we start out too big, we never can reign it back in, we can only go up that's the easier way to go. So, I think we should start out small and move up. Therefore, after discussing with some other Commissioners including Commissioner Strandlie, I would like to make an amendment to Mr. Hart's motion and it's regarding the onsite operator days from thirty to zero – fifteen days offsite. I would like to make that to zero and thirty days onsite, make that to forty-five. Therefore, Mr. Chairman, I MOVE TO AMEND PARAGRAPH 4. A TO STRIKE "FIFTEEN" AND REPLACE WITH "ZERO" AND TO STRIKE "THIRTY" AND REPLACE WITH "FORTY-FIVE." This effectively will allow somebody to come in to code compliance to come to a house and easily know if they're in compliance. It's not about noise, it's not about parking, it's not about lighting, it's not about some other quality of life issue that can be nebulous. It is something that they can look at either the operator is onsite or the operator is not

onsite. And normally if the operator is onsite they're not having all of these issues in the neighborhood.

Commissioner Niedzielski-Eichner: Second.

Chairman Murphy: Seconded by Mr. Niedzielski-Eichner.

Commissioner Strandlie: Second.

Chairman Murphy: Is there a discussion? And Ms. Strandlie.

Commissioner Tanner: Mr. Chairman.

Chairman Murphy: Yes.

Commissioner Tanner: Just a quick question to make sure I understand the motion. Are you stating that there should be a requirement for onsite – the owner of the property to be onsite during all – all contracts so to speak. Is that what you're saying.

Commissioner Migliaccio: They're under contract? Yes.

Commissioner Tanner: Okay.

Commissioner Migliaccio: Forty-five days. I don't want to upset the apple cart. I would go higher with days, but I understand it's been crafted to get to forty-five right now. I think if they're onsite we can go up to ninety at some point but, as I said earlier, I'd like to start out small and move up.

Commissioner Ulfelder: Quick clarification.

Chairman Murphy: And then Ms. Strandlie first and then Mr. Ulfelder.

Commissioner Strandlie: [Inaudible]

Chairman Murphy: Okay, Mr. Ulfelder.

Commissioner Ulfelder: I – I – what I heard Commissioner Tanner say was the owner has to be onsite. It's the operator. Because the – the owner can be the operator, but somebody who is a long-term leasing the property can be the operator as well, so long as they have owner's permission in order to have – to get the permit in order to proceed with STLs. So – so it's not always the owner but it's somebody who is – is an operator and under this proposed ordinance they would have to have the owner's permission in order to be in that position.

Commissioner Tanner: Thank you for the clarification. So – so if somebody were to step outside – or step out of town a while and wanted to lease their property while they were out of town, that would not be allowed according to your amendment. Is that correct?

Commissioner Migliaccio: What do you mean by out of town? Are they going out for a cup of coffee or are they leaving town for three weeks?

Commissioner Tanner: Three weeks.

Commissioner Migliaccio: Then no.

Commissioner Tanner: Got you. Thank you for clarify.

Chairman Murphy: Ms. Strandlie.

Commissioner Strandlie: Thank – Thank you. I firmly support Commissioner Migliaccio's motion. This has been a very important issue in the Mason District. We've heard a lot from our constituents. One of the main things that we're concerned about is that our – our neighborhoods are residential and they're not a tourist destination. We've already seen real estate agents advertising for clients who are looking for investment properties to short-term – to rent out as short-term rentals. It's one thing. And we heard from a lot of constituents who were having good experiences by renting out a bedroom. In particular, I'm thinking about a woman from Reston who told us her story. I strongly believe that we should start with very restricted low numbers, see how that goes. The current situation is not working that well. We don't have any recourse to effectively enforce. So, having some rules will – should be a step forward. So, I would urge my fellow Commissioners to support this motion.

Chairman Murphy: Ms. Hurley.

Commissioner Hurley: I will vote against this amendment. It is unreasonable. If you're renting your place out for forty-five days that you can never leave home? You – it's just totally unreasonable. You've defined always present that means you can't go down the street to get a carton of milk. And if it hasn't been defined, can't they go away for a weekend, for a night on the town or whatever. It's – it's unreasonable to demand that the operator has to be always be present. I think along a couple of weeks that the operator and spouse can go have a weekend together someplace else, whatever, go to the beach. And in addition, you say you're concerned about the people with investment properties. But there are other protections that are set up in this that the operator has to be present for a hundred and eighty-five days a year. You can't – that means over half the year. You can't have more than one house that you can have a permit on because you can't be in more than one house more than a hundred and eighty-five days a year. So, we already have that protection. They can only have one house and they have to live in it for majority of the year. So, I think that's already protected and I don't see how that's at all would be improved by not allowing the operator ever to leave their house while they have a guest present. Including the case you mentioned in Reston.

Chairman Murphy: Mr. Migliaccio then Mr. Tanner.

Commissioner Migliaccio: Thank you, Mr. Chairman. I don't see how it's enforceable when you say forty-five days and there's a subset, be it one day or a thirty-eight days or twenty-three days how do you – how do you know that there are not there or they are there. So, if we're trying to get to a point where we are trying to keep the residential stable neighborhoods what we want them to be, stable residential neighborhoods, I think this is something that we can start off with

and if there's no issues, and we're always complaint-driven for our – on the code compliance, it should not be an issue. I'm not saying that they can't go down and go out. But if you're running essentially a motel in your neighborhood, then you probably should be onsite. Thank you.

Chairman Murphy: Ms. Strandlie. Oh, I'm sorry. Mr. Tanner then Ms. Strandlie. Go ahead.

Commissioner Strandlie: I just wanted to respond to that. There are – there are surely loopholes that people will be looking for. And to say that it would be against the ordinance to go out and get milk or coffee, that's just not the way this is written. It certainly envisions that you are there, you're not leaving your house to go stay in a hotel while you're renting out your own house for this purpose. That's the distinction and I think that's something that we have to look at.

Chairman Murphy: Mr. Tanner...

Commissioner Tanner: And...

Chairman Murphy: And then Mr. Hart.

Commissioner Tanner: Thank you, Commissioner Strandlie. I understand that – it's not for the cup of coffee or even going out for dinner that night. I understand that's not the case. But I agree with Commissioner Hurley with – that for a home owner, it's their – their prerogative. It's their right to choose how they want to rent out their property. And I should say I'm concerned in terms of enforcement, which is why we change the number of days. the number of times. That was – you know and thank you Commissioner Hart for really championing this and driving this forward. But when you start looking at number of days and enforcement that's always gonna be the question when it comes to short-term lodging. And I agree that with a shorter number of days, fifteen is what we agreed upon, forty-five is the – we came up with as well. That – that will start to answer the that question and we can still look forward going future. Personally, I don't think there should be an owner present at any point in time if they chose to rent out their property so long as it was in line with the rules we set in place. However, the compromise, being the understanding is that, when we start looking at the enforcement aspect of it and what we're really trying to do. Having the owner present for the majority of the time, still meets that need and that's gonna drive it forward. So, I am personally also against this amendment, as it's currently stated.

Chairman Murphy: Mr. Niedzielski-Eichner.

Commissioner Niedzielski-Eichner: Thank you, Mr. Chairman. I just wanted to add my voice in support of Commissioner Migliaccio and Strandlie's position on this. I think they articulated rationale well. The – particularly concerned about is we'll talk some more probably but – particularly concerned about the enforcement side of this. What I like about with Commissioner Migliaccio's proposing is that two things. One is – it will be easy – more easily enforced to have the – ensure that the operator is home – is – in on the premises. And second that we start slowly. This is a new initiative. We're not sure how it's gonna evolve. We in fact get learned through many other communities that have had these – this capability, that there've been problems. And so much with staff's good work was is to help ensure that we are minimizing or mitigating against the problems that have arisen in other communities. But it doesn't mean that we should go full bore. It means that we should take our – not baby steps, this not a baby step, but take

reasonable first steps, do some assessment, evaluation and then come back and see where we are. In particular, to ensure that the bad actors are under some constraints and within control. Thank you.

Chairman Murphy: Mr. Hart.

Commissioner Hart: Thank you, Mr. Chairman. In the last couple of weeks, I've come to appreciate more how Congress never can get anything done. I made the motion with the thirty plus fifteen and I recognize those numbers are somewhat arbitrary. And that we have a range of disagreements about what those numbers should be. But the fifteen days, what I was thinking, fifteen days out of three hundred and sixty-five isn't very much. It's two weeks. And there may be reasonable situations where a family wants to rent a whole house for a wedding or a funeral or a family reunion or something like that. And an Airbnb might be an appropriate use for that. I think with fifteen days if we can – if we can handle it and also if we can see how it is for these twelve or eighteen months we can adjust those numbers. I think personally most of the people will be responsible and we can handle fifteen days of something like that. A use like that is probably a situation where somebody isn't going to be in their house. It's more difficult if they're just renting out a bedroom or a couple bedrooms, then it – the owner is not there for the whole house. I think we are starting small. I think this is a – it's a fairly compartmentalized and discrete number and we can try it. And if it's a flop, we'll find out or if there's problems and complaints resulting from that, I think we'll understand that better having a little bit of experience under our belt. The fifteen number isn't magic, but I think we can handle – I think fifteen is small enough that we can handle.

Chairman Murphy: Mr. Ulfelder.

Commissioner Ulfelder: Thank you, Mr. Chairman. The – the assumption seems to be that if the operator, whether it's the owner or someone who has the right to be an operator in this situation, is present meaning that they haven't left town, that they're probably gonna be staying in a bedroom somewhere in the house overnight. That the – that somehow, if we don't have that situation, then it's gonna be situations where the short-term leasing or the guest are gonna get out of hand. That the – that you want the operator there to – to make sure that people don't go out on the lawn and through beer cans at the fence or whatever they do, or might do, excuse me. However, I think there are a group of people who are doing short-term leasing, who do it in part while they are out of town and I think that's a legitimate situation. I guess the enforcement question is how do you after the fact determine whether they were – if they leased only for forty-five days, which is the restriction on an annual basis, that they were there for thirty of them and they were only away for fifteen. Well I agree that's gonna be difficult to prove one way or the other. But that's not the real issue. The real issue is how do people who are leasing the property act. How do they conduct themselves and is this designed to – this particular proposed amendment designed to add an extra layer to – of assurance that we're gonna have people leasing these properties who are behaving themselves and aren't doing anything that they shouldn't be doing and disturbing the neighbors in the neighborhood. So, I'm a little torn but at this point I would vote against the amendment and retain the current fifteen days and thirty days situation as proposed in the original amendment.

Chairman Murphy: Mr. Migliaccio.

Commissioner Migliaccio: Just on that point Mr. Ulfelder, I agree on what you were saying but when you have fifteen days out of forty-five days, might as well make it forty-five. Because as you stated, how do we tell. So it's not zero, it's not one, it's forty-five is how I read it. Because that's what the people – and I'm not talking about the people that – looking at the rules and abiding by it, I'm talking about the bad actors that we can't seem to reign in. Be it the boarding house or other things, and this gets Code Compliance something that easily sink their teeth into, either the operator, the permittee is onsite or the are not. Not trying to determine were they here fourteen days, twenty-three days, what happened. So that's why I wanted to give it something so that Code Compliance has something to look at, rather than just parking or some other thing that we have to have the police call that night because there's a party and they're not coming out at – there's no task force at midnight coming out but this is something that the police can say, the permittee is not there on the report, therefore, we just move on.

Commissioner Ulfelder: Mr. Chairman.

Chairman Murphy: Mr. Ulfelder.

Commissioner Ulfelder: I understand but, I don't think it's any easier after the fact for us to determine whether the operator was present on the property the particular night or not. The only we we're gonna find out is if there's a complaint. The police arrive because of a noise complaint or something like that. Find out that it's the group of people who are there under an Airbnb listing on a short-term rental and they start looking around for the operator, and they say – the people who are leasing it say, "oh they're out of town." I mean that would be the way you catch it. I – I agree, you know, you go back and look at everybody, you know, they're gonna have a little box to say, "I was present – I was present," besides each short-term rental that they have, that they list in their log. So, for me it's either way, it's still an enforcement issue. It's still and enforcement problem, it's still a matter of putting together sufficient evidence to support a notice of violation. And if you – and God forbid you end up having to go to court with it and so on. So, I think – I mean I think that the enforcement problems exist either way and – but this way we have a class of people who feel for part of the time at least, they can go away for a weekend while they lease out their house and not be "in violation of their burden."

Chairman Murphy: Mr. Carter.

Commissioner Carter: I think the key word there is "operator." So, it doesn't necessarily have to be the owner. But I think what the motion is after is to have somebody onsite at all times who is responsible. When that code enforcement person comes, and responds to a complaint, somebody needs to be there that is responsible. And if the word "operator," I suppose could have a couple of different meanings but not necessarily the owner. So, I'm gonna support that motion because I think that we need somebody onsite at all times who is responsible for taking care.

Chairman Murphy: Ms. Hurley.

Commissioner Hurley: I agree with Commissioner Ulfelder that there's an enforcement issue. If you're saying they have to be onsite at all times, that means if the police happen to come and the guy when out to dinner, he's in violation. You're saying they have to be onsite at every moment, when the police show up they better darn well be standing there at the door, that is unreasonable. I really think that's totally unreasonable.

Commissioner Carter: I think you're right. I said all times but that's not exactly what was meant, so. [Inaudible] Going out for dinner and things like that are not covered. We want somebody there responsible.

Chairman Murphy: Mr. Migliaccio.

Commissioner Migliaccio: Mr. Chairman, then I mean – I understand that and that's not the intent of the motion – the amendment. If it was, then it's a very poorly worded motion and I will change it but, I'm just looking what we're going off of in Paragraph 4. A. Well if you have fifteen nights, where they're not there but thirty nights they have to be there, so we already have that in there so we already have this discussion going on. It's not about did they go out to dinner, did they go out to get a cup of coffee, did they go across town to babysit during the day, it's about are they physically there at night are they there to oversee the operator they're essentially bed and breakfast. Thank you.

Chairman Murphy: Further discussion of the motion put forth by Mr. Migliaccio. If not, all those in favor of the motion, say aye.

Commissioners Niedzielski-Eichner and Migliaccio: Aye.

Commissioner Hurley: Are we voting on the amendment?

Chairman Murphy: That's the amendment.

Commissioner Hurley: Not the motion.

Commissioner Sargeant: We're voting on the amendment.

Chairman Murphy: The amendment. Yeah.

Commissioner Migliaccio: The amendment

Chairman Murphy: The amendment. Yeah, yeah, Mr. Migliaccio. Say aye.

Commissioners: Aye.

Chairman Murphy: Opposed?

Commissioners: No

Commissioner Hart: Division.

Chairman Murphy: Division.

Chairman Murphy: Mr. Clarke.

Commissioner Clarke: No.

Chairman Murphy: Ms. Cortina.

Commissioner Cortina: No.

Chairman Murphy: Ms. Strandlie.

Commissioner Strandlie: Yes.

Chairman Murphy: Mr. Ulfelder.

Commissioner Ulfelder: No.

Chairman Murphy: Mr. Sargeant.

Commissioner Sargeant: No.

Chairman Murphy: Mr. Hart.

Commissioner Hart: No.

Chairman Murphy: Mr. Tanner.

Commissioner Tanner: No.

Chairman Murphy: Mr. Carter.

Commissioner Carter: Yes.

Chairman Murphy: Mr. Niedzielski-Eichner.

Commissioner Niedzielski-Eichner: Yes.

Chairman Murphy: Ms. Hurley.

Commissioner Hurley: No.

Chairman Murphy: And the Chair votes yes. Mr. Migliaccio, I ...

Commissioner Migliaccio: I vote yes. But the motion failed.

Chairman Murphy: Motion fails.

Commissioner Hart: After five to seven, it failed.

Chairman Murphy: Five to seven.

Commissioner Hart: Go back to the main motion.



Chairman Murphy: Go back to the main motion. Is there further discussion of the main motion?

Commissioner Ulfelder: Sure.

Chairman Murphy: Okay. I wasn't encouraging it, I was just asking a question. Mr. Ulfelder.

Commissioner Ulfelder: Thank you, Mr. Chairman. You know, I support this. My – my neck is too short to – to stick in the ground. And this is a problem and Fairfax County is too large, too diverse with too much of a large housing base – residential base to ignore this. So, I'm in favor of this particular proposed motion because I think it represents an appropriate first step. And, it will give people who are planning – who are planning on leasing out space to visitors. I mean we have people who come for business and who use short-term rentals in Fairfax County for conventions, for other meetings, for recreation, for tourism, for the entire area. I mean we've seen a lot of these applications around our TSAs near Metro stations, where people have easy access to downtown or other places outside of Fairfax County as well. And I think that this is what I call more of a minimalist approach. An approach that's designed to get us going and give us a platform in which to work with people who are doing short-term leasing or planning to do short-term leasing in a beneficial way. And to at the same time keep people who do what I would call industrial strength short-term leasing from buying up houses and doing – taking other steps to go into a wider scale business of short-term leasing with properties that they may own and be able to set up in Fairfax County. And, I think that we need some time and experience with an ordinance that has – that allows some level of short-term leasing in order for us to make some of the decisions we are – have been thinking about, have been sort of agonizing over but don't have answers for at this point. So, that we can look at this Zoning Ordinance Amendment in twelve to eighteen months and determine to what extent enforcement turned out to be a really big problem and to what extent people ignore the ordinance, and the extent of which short-term leasing actually results in problems within the neighborhoods. And, what type of neighborhoods and what situations are the ones where it turns out to be a bigger problem. So, I support the motion as an appropriate first step and hopefully we can then find out as we progress as to how further we might address this. And I know there is a follow-on motion to help starting to address some of those.

Chairman Murphy: Further discussion? Yes. Mr. Niedzielski-Eichner.

Commissioner Niedzielski-Eichner: Thank you, Mr. Chairman. I am – have been reluctant, as Mr. Hart – Commissioner Hart knows, I've been a reluctant Commissioner to come to this table. But after Commissioner Hart's extensive work and interaction with the staff, I'm taken to heart the admonition that good is – perfect is the enemy of good. And, I think this is a good first step. But it's not a sufficient step for the longer run. And the only way to get to a sufficient step, I think is to do – have some experience under our belt. And – so, with the follow-on motion that Mr. Hart is going to be presenting later, I will – I'll be supportive of this particular motion. I want to emphasize my concern for two points. One is the matter of enforcement. And if I have understood the – the – Commissioner Hart's point of view on this, we should not expect any further – any additional enforcement effort beyond current practice. And I would recommend that the Board of Supervisors take this on as a challenge. I'm – I've always kind of been – the Chairman Bulova's concept of a booster shot has resonated with me. Particularly in this context of this major new effort is to bring into some regulatory control, a new concept – a new approach to lodging. When we have something new of so much significance, and when we're trying to

protect our neighborhoods while we roll this out, it makes sense to me to make sure that there is enforcement capability that we jump start or we put additional enforcement capability into play to ensure that this regulatory construct that we're creating is – is effectively implemented. So enforcement is critical. The second thing I'd note is that a twelve-to-eighteen-months study period is not gonna be valuable to us, unless we know our priority what it is we're studying. What are the variables that will be collecting data on, that will allow us then after twelve to eighteen months have sufficient data before us that will allow an effective evaluation of our progress or lack of progress. But I will be supporting this and I wanna express my appreciation to Commissioner Hart for his hard effort.

Chairman Murphy: Mr. Migliaccio.

Commissioner Migliaccio: Thank you, Mr. Chairman. As I mentioned earlier, what we have in place right now is not workable and we need something. My amendment got a hearing, it lost, so we move on. I will be supporting Commissioner Hart's main motion, just because we need something to look at, something to evaluate. I don't think the enforcement mechanism is strong enough, I don't think that it will be – I think in twelve to eighteen months, we may be revisiting if not sooner, the enforcement mechanism in it. But I'll be voting in favor of it.

Chairman Murphy: Further discussion. Ms. Strandlie.

Commissioner Strandlie: Thank you, Mr. Chairman. This amendment proposal has come a long way since we started with the very high numbers for possible nights from a hundred and eighty nights per year to the fifteen, with the operator present. And an additional thirty without the operator present. These numbers come in actually lower than some recommendations that we received from our community and are in line with numbers that reluctantly – my preference would be operator present a hundred percent of the time. And unfortunately, that failed. With the follow-on motions and the changes, I'm gonna support this as well, because we do need something in place. And some of the follow-on motions include some enforcement enhancements that will encourage the Board to look at that. The notarization of the application. The - one thing that I think is extremely important and I hope that staff takes this very seriously, to work on agreements. With the hosting platforms to take anyone off that does not have a valid permit. It appears as though this will pass with or without my – my vote, or maybe not, if someone else says something maybe I'll change mind in the meantime.

Chairman Murphy: Please no one else.

Commissioner Strandlie: But, you know, this is – this has been one of the toughest things that we've worked on since I've been on the Planning Commission. This has – will have an impact on neighborhoods. And – but you know, it already is. We have people renting out full house rentals now in our – in our neighborhoods and we don't have any rules in place. So, that's where I'm coming from at this moment. And I look forward to hearing from other Commissioners' positions.

Chairman Murphy: Further discussion? I'll just take a whack at it. I really did not know how I was gonna vote on this and I made no commitment other than, my commitment was I might just abstain. But having said that, the reason I said that was that if notwithstanding the Planning Commission's recommendation to the Board, if the Board of Supervisors in its wisdom approves

this concept, this Zoning Ordinance Amendment, we're gonna have this for a very, very long time and it better be as close to right as it can be. I have full faith in our folks who go out and enforce the rules and regulations. And yet I hope this amendment if it goes before the Board and its approved, that work will not become too onerous because right now there is no plan to increase that staff. We may have to do that and that may be something we have to do in the future. But going off this perfect solution that Mr. Hart said, it's never going to be perfect, I don't think. There are still a lot of questions to be answered but I think this particular motion, with the follow-on motions that Mr. Hart is going to make, will get closer to that state where if it is approved by the Board, it will be fairly operational and it will be accepted as far as the procedure is concerned that we – we will look forward to in the future and how we can manage this type of housing in our communities. Because let's face it, this is going to have an impact in our stable residential communities. And that was my biggest concern. But I think we have to give it a shot and let's see what the Board does with it and we'll have a chance to come back and look at it again. So, I'm gonna continue to – I'm not going to continue to abstain, I'm going to support the motion. Further discussion? All those in favor of the motion as articulated by Mr. Hart, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. How about that?

Commissioner Hart: I don't believe my ears.

Chairman Murphy: This is – now this was just the rehearsal. This was the rehearsal dinner; the wedding hasn't happened.

Commissioner Hart: Let me thank everyone for having an open mind. I was not expecting that. I've been counting noses for three weeks. I have another motion, if I may, Mr. Chairman.

Chairman Murphy: Please. Good luck then.

Commissioner Hart: Yeah. This one is a tiny font here so. I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD THAT STAFF BE DIRECTED TO PREPARE AN EXPEDITED FOLLOW-UP ZONING ORDINANCE AMENDMENT FOR AUTHORIZATION TO PERMIT THE CONSIDERATION OF THE FOLLOWING ADDITIONAL OPTIONS:

1. ESTABLISHMENT OF A SPECIAL PERMIT PROCESS TO ALLOW AN OPERATOR TO REQUEST ADDITIONAL NIGHTS PER YEAR WITH OR WITHOUT THE OPERATOR PRESENT, AND OR INCREASE THE NUMBER OF ADULT LODGERS PERMITTED PER RENTAL CONTRACT. THE SPECIAL PERMIT OPTION SHOULD BE ADVERTISED TO INCLUDE A REQUIREMENT FOR A FIRE AND SAFETY INSPECTION, INCLUDING AN APPROPRIATE FEE FOR SUCH AN INSPECTION AND A SPECIAL PERMIT FEE OF NOT LESS THAN \$910.
2. IN ACCORDANCE WITH *VIRGINIA CODE* SECTION 15.2-2286 (A) (4), LIMITING TO TEN DAYS THE APPEAL PERIOD FOR A NOTICE OF VIOLATION CITING VIOLATIONS OF THE SHORT-TERM LODGING ORDINANCE, RATHER THAN THE THIRTY DAYS CURRENTLY AUTHORIZED.

I FURTHER MOVE THAT THE BOARD DIRECT STAFF TO:

- REQUIRE THAT ANY APPLICATION FOR A SHORT-TERM LODGING PERMIT BE NOTARIZED SO THAT EACH OPERATOR AFFIRMS THAT THE ALL OF THE INFORMATION PROVIDED IN THE PERMIT APPLICATION IS TRUE AND CORRECT UNDER PENALTY OF PERJURY;
- MONITOR THE SHORT-TERM LODGING ACTIVITY AND RECOMMEND ANY NECESSARY CHANGES TO THE BOARD’S CURRENT ENFORCEMENT POLICY INCLUDING, BUT NOT LIMITED TO, EVALUATING WHETHER A SPECIAL STAFF TEAM SHOULD BE TASKED WITH INVESTIGATING COMPLAINTS AND MONITORING COMPLIANCE;
- REPORT TO THE PLANNING COMMISSION AND BOARD OF SUPERVISORS TWELVE OR EIGHTEEN MONTHS AFTER THE ENACTMENT DATE TO RECOMMEND AMENDMENTS TO THE ORDINANCE OR TO THE BOARD’S ENFORCEMENT POLICY, IF SUCH CHANGES ARE NECESSARY; AND
- EXPLORE THE POSSIBILITY OF ENTERING INTO AN AGREEMENT WITH THE THREE MAJOR HOSTING PLATFORMS, AIRBNB, VRBO, AND FLIP KEY, TO REMOVE NON-COMPLIANT OPERATORS FROM THOSE PLATFORMS.

Commissioners Ulfelder, Tanner and Strandlie: Second.

Chairman Murphy: Seconded by Mr. Ulfelder and Mr. Niedzielski-Eichner. Oh, Mr. Tanner. Did you second too?

Commissioner Niedzielski-Eichner: No.

Chairman Murphy: Oh, just the two. And...

Commissioner Strandlie: I seconded.

Chairman Murphy: You seconded? And, Ms. Strandlie. Ok, Samantha did you get that? Okay.

Commissioner Hart: She’s gonna be typing very late.

Chairman Murphy: I was gonna say, we ought to take Samantha out to dinner after this is all over. All right. Is there a discussion of the motion? Yes.

Commissioner Strandlie: Thank you, Mr. Chairman. On the application that will be put together for the permit, we do have an opportunity to provide some input to staff. And I heard from

constituents today about some ideas and I have conveyed those and we'll be following up on those items.

Chairman Murphy: Further discussion of the motion. Mr. Niedzielski-Eichner.

Commissioner Niedzielski-Eichner: Thank you Mr. Chairman. I had in my earlier comments on the main motion, I had made note of the – my interest in having ahead of time, a design of an evaluation plan. So, that when we get to the twelve month or eighteen month in stay, that we have already know ahead of time generally what the staff's approach will be to evaluating the success for the improvements that need to be made. So, I wanted to see if the Mr. Hart would be open to either a friendly amendment or we could do this as a – as a actual amendment. In fact, I'll just put it on the floor for a motion and we can all take it for what it's worth, or not. But my motion would be to – for the third bullet of which is – starts with "report to the Planning Commission and Board of Supervisors" prior to the word "report," I MOVE THAT WE INCLUDE THE LANGUAGE "DESIGNED AND IMPLEMENT A DATA COLLECTION AND EVALUATION PLAN AND THEN REPORT TO THE PLANNING COMMISSION AND THE BOARD OF SUPERVISORS. Basically, it's staff's professional ethic if you're going to decide to – would like to make sure that we have a plan in place for studies – that knows what we're studying and what the logic – what likely evaluation outcome would look like.

Chairman Murphy: Mr. Hart.

Commissioner Hart: Mr. Chairman, let me if I may jump in. I think it's fair to say that this wording was very heavily vetted with the County Attorney's office prior to tonight. And while I don't know that we can do this at the dais, my suggestion would be that it's appropriate to leave the bullet as flexible as it is. But I think I can get a commitment from the Zoning Administrator and the County Attorney's office that we can have a committee meeting as soon as appropriate. Don't make that face please. I think it's probably Land Use Process. But – excuse me.

Commissioner Niedzielski-Eichner: Don't look at me.

Commissioner Hart: No, no it was him. It was him. He made the face.

Commissioner Migliaccio: I know it's my committee, so....

Chairman Murphy: I haven't said a word.

Commissioner Hart: Where we can discuss with the Zoning Administrator and staff the kinds of things that I think obviously – I mean obviously, it's gonna be statistics. How many of them are there, how many permits have we had, how many people wanna apply for something else, how many violations have we had, how many people are – are asking about doing something else, how many people stop doing it when they get a letter. What are the – how many complaints have we received and I think we are probably on the same sheet of music on that. And I've seen staff here is all nodding and we're gonna have a committee meeting and hash this out. There's no

hidden agenda here. I'd prefer not to monkey with the wording or maybe it would take longer if we start asking questions about it. But I hope that with that commitment, to have that discussion, a purposeful and meaningful discussion, about these things we can get there without changing the wording.

Commissioner Hurley: Point of order.

Chairman Murphy: Yeah.

Commissioner Hurley: There was a – an amendment to the motion made. I did not hear a second so...

Chairman Murphy: He asked for a friendly motion. He gets to read...

Commissioner Hart: Oh yeah, no. I wasn't – I was saying not to do it...

Commissioner Niedzielski-Eichner: No, no I withdraw. I withdraw the motion. I recognize the points Commissioner Hart's making. I wanna have it on the record of my interest in assuring that there is a quality evaluation plan put in place before we go down this road. So that the end of this period, we have an outcome – the study outcome that we can all feel is informative and useful for evaluating whether we move forward or how we move forward in the future. Thank you.

Chairman Murphy: All right, is there further discussion of the motion as articulated... Oh, I'm sorry Mr. Ulfelder.

Commissioner Ulfelder: I hate to be the twelfth monkey here. I had a one word change in that same bullet where it says "enactment date." I was thinking of substituting "effective date" because in the main motion we've made the effective date October 1<sup>st</sup>, which would be beyond the enactment date.

Commissioner Hart: I have a thumbs up on that and I will accept that.

Chairman Murphy: Life is simple. Further discussion of the motion. All those in favor of the motion to recommend to the Board of Supervisors that it adopt the amendment as submitted – the motion as submitted by Mr. Hart, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Hart: Thank you. Thank you all for having an open mind and a constructive discussion.

**The amendment to the main motion as dictated by Commissioner Migliaccio failed by a vote of 5-7. Commissioners Clarke, Cortina, Ulfelder, Sargeant, Hart, Tanner and Hurley voted in opposition.**

**The main motion carried by a vote of 12-0.**

**The follow-on motion carried by a vote of 12-0.**

SL

**PLANNING COMMISSION PREFERRED TEXT FOR SHORT-TERM LODGING  
ZONING ORDINANCE AMENDMENT**

**Amend Article 20, Ordinance Structure, Interpretations and Definitions, Part 3, Definitions, by revising the current definition of DWELLING and DWELLING, MOBILE HOME and to add new definitions for SHORT-TERM LODGING and TRANSIENT OCCUPANCY to read as follows:**

**DWELLING:** A building or portion thereof, but not a MOBILE HOME, designed or used for residential occupancy. The term 'dwelling' ~~shall not be construed to~~ does not mean a motel, rooming house, hospital, or other accommodation used for more or less ~~transient occupancy~~ TRANSIENT OCCUPANCY, except a dwelling may be used for SHORT-TERM LODGING.

**DWELLING, MOBILE HOME:** A single family residential unit with all of the following characteristics: (a) designed for long-term occupancy, and containing sleeping accommodations, a flush toilet, a tub or shower bath and kitchen facilities with plumbing and electrical connections provided for attachment to outside systems; (b) designed to be transported after fabrication on its own wheels or on a flat bed or other trailer or detachable wheels; (c) arriving at the site where it is to be occupied as a dwelling complete, conventionally designed to include major appliance, and ready for occupancy except for minor and incidental unpacking and assembly operations, location on foundation supports, connection to utilities, and the like; (d) designed for removal to and installation or erection on other sites.

A mobile home may include one (1) or more units, separately towable, which when joined together shall have the characteristics as described above. For the purposes of this Ordinance, a mobile home shall not be deemed a SINGLE FAMILY DETACHED DWELLING. A MOBILE HOME does not include TRANSIENT OCCUPANCY, except a mobile home may be used for SHORT-TERM LODGING.

SHORT-TERM LODGING: The provision of a room or space that is suitable or intended for transient occupancy, in exchange for a charge for the lodging. Such use does not include ACCESSORY DWELLING UNIT, BED AND BREAKFAST, HOTEL/MOTEL, or TEMPORARY FAMILY HEALTH CARE STRUCTURE.

TRANSIENT OCCUPANCY: Use of a DWELLING or MOBILE HOME, or part thereof, for sleeping or lodging purposes for fewer than 30 consecutive nights.

**Amend Article 10, Accessory Uses, Accessory Service Uses and Home Occupations, as follows:**

- **Amend Sect. 10-102, Permitted Accessory Uses by revising the lead-in paragraph and adding a new Par. 35, as follows:**

Accessory uses and structures ~~shall~~ may include, but are not limited to, the following uses and structures; ~~provided that any~~ such use or structure ~~shall~~ must be in accordance with the definition of Accessory Use contained in Article 20.



**PLANNING COMMISSION PREFERRED TEXT FOR SHORT-TERM LODGING  
ZONING ORDINANCE AMENDMENT**

35. Short-Term Lodging, limited by the provisions of Sect. 105 below.

- Add a new Sect. 10-105, Short-Term Lodging, to read as follows:

**10-105     Short-Term Lodging**

Short-Term Lodging, as defined in Article 20, is permitted in a dwelling or mobile home only upon the Zoning Administrator's issuance of a permit and is subject to the following limitations:

1. For the purposes of this section, the following definitions apply:

- A. Authorized Agent: an adult designated by a Short-Term Lodging Operator who consents to be available to address issues or emergencies that may arise during any Short-Term Lodging stay.
- B. Permanent Resident: a person who occupies or intends to occupy a dwelling or mobile home for at least 185 days out of the calendar year for the purposes of establishing the dwelling or mobile home as that person's primary residence. A person may have only one permanent residence.
- C. Short-Term Lodging Operator: an owner or tenant of a property who offers that property for Short-Term Lodging.

2. A dwelling or mobile home used for Short-Term Lodging must:

- A. Be open, upon request, for inspection by County personnel during reasonable hours; and
- B. Comply with the requirements of the applicable version of the Virginia Uniform Statewide Building or Virginia Manufactured Home Safety Regulations, as determined by the Building Official; and
- C. Have a working multi-purpose fire extinguisher and interconnected smoke detectors and carbon monoxide detectors (when required for a fireplace or gas service); and
- D. Have a plan posted inside the door to each sleeping room showing the exit pathway from the sleeping room to the nearest exit from the dwelling or mobile home.
- E. Have one designated parking space available for lodgers, which the Operator has the authority to reserve for Short-Term Lodging purposes.

**PLANNING COMMISSION PREFERRED TEXT FOR SHORT-TERM LODGING  
ZONING ORDINANCE AMENDMENT**

3. A Short-Term Lodging Operator must:

- A. Be a permanent resident of the property hosting the Short-Term Lodging Use. Permanent residency must be demonstrated at the time of application for a permit to operate Short-Term Lodging; and
- B. Obtain written consent from the owner of the property for the Short-Term Lodging Use; and
- C. Assume responsibility for determining whether any regulations, prohibitions, and covenants applicable to the dwelling or mobile home prohibit Short-Term Lodging; and
- D. Designate at least one person who consents to serve as an Authorized Agent for the Short-Term Lodging Operator. Contact information (name, address, telephone, and email address) for the Authorized Agent(s) must be provided on the application for a Short-Term Lodging permit, posted in a prominent location within the area made available for Short-Term Lodging, and provided in any written material given to lodgers during their overnight stay.  
*[Additionally advertised to allow the Board to require the Short-Term Lodging Operator to be present during any rental for transient occupancy; or to establish additional requirements related to the Authorized Agent's physical proximity and response time to any issues or emergencies that may arise at the STL when the Operator is not present.]*

4. The Short-Term Lodging Use is subject to the following use limitations:

- A. A dwelling or mobile home may be used for Short-Term Lodging for no more than 15 nights per calendar year, during which the Operator is not present. Short-term lodging may also be conducted for an additional 30 nights, for a potential total of 45 nights, if the Operator is present for all short-term lodging stays exceeding 15 nights.  
*[Advertised to permit the Board to consider a maximum of 180 nights per year that a dwelling/mobile home could be used as an STL. Additionally, the advertisement allows the Board to consider any number of nights in which the STL Operator must be present during an STL rental from 0 to 180 per year.]*
- B. The maximum number of lodgers per night may not exceed 4 adults except where the Virginia Uniform Statewide Building Code provides for a lower maximum occupancy.

**PLANNING COMMISSION PREFERRED TEXT FOR SHORT-TERM LODGING  
ZONING ORDINANCE AMENDMENT**

*[Advertised to permit the Board to consider any occupancy limit up to an unlimited number of people, except as limited by the Virginia Uniform Statewide Building Code.]*

- C. All lodgers occupying a Short-Term Lodging must be associated with the same rental contract. The maximum number of rental contracts per night is one. *[Advertised to permit the Board to consider a range on the number of contracts per night from 1 to 5.]*
- D. Events and activities—including luncheons, banquets, parties, weddings, meetings, fund raising, commercial or advertising activities, and any other gathering of persons other than the authorized lodgers, whether for direct or indirect compensation—are prohibited in association with any Short-Term Lodging.
- E. All advertisements for Short-Term Lodging, posted on any platform online or in any other format, must (i) include the Short-Term Lodging permit number and (ii) identify the location of the parking space required by paragraph 2E and any other available parking or public transportation options. *[Advertised to allow the Board to consider requiring 1 to 2 parking space per contract, with staff recommending none.]*
- F. A Short-Term Lodging Operator must maintain a guest log including the name, address and telephone number of all overnight lodgers. The guest log must be made available upon request to any County employee or agent tasked with enforcing the Zoning Ordinance or other applicable part of the County Code.
- G. Short-Term Lodging is prohibited in a detached accessory structure, accessory dwelling unit, temporary family health care structure, affordable dwelling unit or workforce dwelling unit.
- H. The Zoning Administrator’s issuance of a permit does not abrogate, nullify, or invalidate any other provision of federal, state, or local law; any restrictive covenant; or any property owners association by-law.

**5. Permit Required**

- A. An application for a Short-Term Lodging permit must be submitted to the Zoning Administrator on a form furnished by the County along with a filing fee of \$200.
- B. The permit will be valid for two years from the date of issuance. *[Advertised to allow the Board to consider any permit fee from \$50 to \$250 and a range of permit validity from 1 to 2 years.]*

**PLANNING COMMISSION PREFERRED TEXT FOR SHORT-TERM LODGING  
ZONING ORDINANCE AMENDMENT**

C. A permit for Short-Term Lodging may be revoked by the Zoning Administrator because of the failure of the Short-Term Lodging Operator to comply with all applicable regulations set forth in this Section or elsewhere in the Zoning Ordinance. The Zoning Administrator will give notice of any such revocation by letter to the Short-Term Lodging Operator and the property owner, where applicable, setting forth the grounds upon which the permit was revoked, the date and time when the revocation is effective, and the appeals procedure. These provisions do not preclude the Zoning Administrator's use of any other remedy prescribed by law with respect to violations of this Ordinance.

**Amend Article 18, Administration, Amendments, Violations and Penalties, by amending Part 1, Administration, Sect. 106, Application and Zoning Compliance Letter Fees, to modify the Category 5 Special Exception fees in Par. 1, and to amend Par. 5, as follows:**

1. Application for a variance, appeal, special permit or special exception:

Category 5 special exception	\$16375
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• <u>Bed and Breakfast</u>	<u>\$8180. [Advertised to permit the Board to consider any application fee from \$4085 to \$16375.]</u>
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• <u>All other uses</u>	<u>\$16375</u>
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5. Fees for food trucks, small cell facilities, home occupations, short-term lodging, sign permits and site plans shall be as specified in Articles 2, 10, 12 and 17, respectively as applicable.

### Short Term Lodging (STL) Amendment - Residential Owner/Renter Operate Dwellings Only

Staff has proposed amendment requirements for the Board's consideration. However, the legal advertisement has provided flexibility so the Board has options when determining the appropriate regulations for this use. The following table details the proposed amendment requirement as well as the option provided to the Board and the proposed Planning Commission recommendation.

Topic	Proposed Amendment Requirement (Staff Recommendation)	Option Provided through Advertisement	Planning Commission Recommendation
Authorized Agent	<ul style="list-style-type: none"> <li>Designate at least one adult as an Authorized Agent when Operator is not available</li> <li>Posted in a prominent location within the area made available for STL</li> <li>Provided in any written material given to lodgers during their overnight stay.</li> </ul>	<ul style="list-style-type: none"> <li>Establish additional requirements related to the Authorized Agent's Physical proximity and response</li> <li>Option to require Operator to be present during any rental for transient occupancy</li> </ul>	<ul style="list-style-type: none"> <li>Adopted Staff Recommendation</li> </ul>
Number of Nights	<ul style="list-style-type: none"> <li>No more than 90 nights per calendar year</li> <li>No limit on number of nights Operator must be present during 90 days of rentals</li> </ul>	<ul style="list-style-type: none"> <li>Range of up to 180 nights per year</li> <li>Range of 0-180 nights Operator must be present during rental</li> </ul>	<ul style="list-style-type: none"> <li>No more than 45 nights per calendar year total</li> <li>No more than 15 nights per calendar year without the Operator present</li> </ul>
Number of Lodgers	<ul style="list-style-type: none"> <li>Not to exceed 6 adults (except where the Virginia Uniform Statewide Building Code allows fewer occupants)</li> </ul>	<ul style="list-style-type: none"> <li>Range to allow unlimited persons (except as limited by the Virginia Uniform Statewide Building Code)</li> </ul>	<ul style="list-style-type: none"> <li>Not to exceed 4 adults (except where the Virginia Uniform Statewide Building Code provides for a lower maximum occupancy)</li> </ul>
Rental Contract	<ul style="list-style-type: none"> <li>Maximum number of one rental contract per night</li> </ul>	<ul style="list-style-type: none"> <li>Range of 1 to 5 rental contracts per night</li> </ul>	<ul style="list-style-type: none"> <li>Adopted Staff Recommendation</li> </ul>
Advertisements	<ul style="list-style-type: none"> <li>Identify where lodgers can legally park or state that parking is not available.</li> </ul>	<ul style="list-style-type: none"> <li>Requirement of 1 to 2 parking spaces per contract</li> </ul>	<ul style="list-style-type: none"> <li>Require the designation of one parking space that the Operator has the authority to reserve/designate to be available for lodgers</li> <li>Identify other available parking or public transportation options</li> </ul>
Permit	<ul style="list-style-type: none"> <li>\$200 permit that is valid for two years from date of issuance</li> </ul>	<ul style="list-style-type: none"> <li>Fee range of \$50 to \$250</li> <li>Range of permit validity from 1 to 2 years</li> </ul>	<ul style="list-style-type: none"> <li>Adopted Staff Recommendation</li> </ul>
Bed and Breakfast Fee	<ul style="list-style-type: none"> <li>\$8,180</li> </ul>	<ul style="list-style-type: none"> <li>Range of \$4,085 to \$16,375</li> </ul>	<ul style="list-style-type: none"> <li>Adopted Staff Recommendation</li> </ul>



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COUNTY

# STAFF REPORT

VIRGINIA

## PROPOSED ZONING ORDINANCE AMENDMENT

Articles 10, 18 and 20 of the Zoning Ordinance and  
Chapter 4 of the Code of Fairfax County Regarding  
**Short-Term Lodging**  
(Residential Owner/Renter Operated Dwellings Only)

## PUBLIC HEARING DATES

**Planning Commission**

May 3, 2018 at 7:30 p.m.

**Board of Supervisors**

June 19, 2018 at 4:00 p.m.

PREPARED BY  
ZONING ADMINISTRATION DIVISION  
DEPARTMENT OF PLANNING AND ZONING  
703-324-1314

March 20, 2018

LY



Americans with Disabilities Act (ADA): Reasonable accommodation is available upon 48 hours advance notice. For additional information on ADA call 703-324-1334 or TTY 711 (Virginia Relay Center).

## STAFF COMMENT

In 2017, the General Assembly enacted Virginia Code § 15.2-983 (Attachment B), affirming a locality's right to regulate the short-term rental of property through its general land use and zoning authority. As a result of this law, on March 14, 2017, the Board of Supervisors (Board) directed staff to form a workgroup to analyze the short-term rental of property in Fairfax County and recommend possible changes to the County Code and Zoning Ordinance. Staff from the Department of Planning and Zoning (DPZ), the Department of Code Compliance (DCC), the Department of Tax Administration (DTA), the County Attorney's Office (OCA), the County Executive's Office (CEO) and the Office of Public Affairs (OPA) comprised the County's workgroup.

Staff determined that there are different arrangements of transient housing offered by County businesses and residents. While staff may propose further ordinance changes, particularly with regard to transient occupancy in commercially managed multiple family rental developments **the Zoning Ordinance amendments presented in this Staff Report reflect only Short-Term Lodging (STL) conducted by an owner or renter in his or her permanent residence.**

These proposed amendments to the Zoning Ordinance and the County Code create regulations to address STL operations in terms of both zoning and taxation. Staff presented the general framework for the amendment to the Board's Development Process Committee (DPC) on July 18, October 3, and December 12, 2017, and to the Planning Commission's Land Use Process Review Committee (LUPRC) on June 22 and September 28, 2017. The Planning Commission held a public workshop November 1, 2017 to discuss that framework. Additionally, extensive public outreach has occurred, as discussed in more detail below.

### **Background**

The rise in popularity of online hosting platforms such as AirBnB, Vacation Rental by Owner (VRBO), HomeAway, TripAdvisor, and FlipKey has encouraged many homeowners and renters to offer their homes for transient lodging. Individual rooms within a dwelling or entire dwellings are offered for a fee for periods of less than 30 days, and the search, booking, and fee collection components are typically handled by the hosting platform. This emerging economic model has presented regulatory challenges related to land use and other matters in many jurisdictions in Virginia and nationwide.

### **Existing STLs**

Staff research indicates that there are more than 1,500 active STLs—that is, STLs that have been rented in the past year—currently operating in Fairfax County. Assuming there are 1,500 active STLs operating in the County, only 54, or less than 1%, have been the subject of complaints for the STL use. While these numbers do not discredit the concerns raised, they do reflect that there may be a significant number of STLs currently operating without any negative impacts on their communities. At the time of preparation of this Staff Report, the Department of Code Compliance has 13 open cases under investigation and has issued 6 Notices of Violations (NOVs). Of those 6 NOVS, 4 have resulted in compliance, while 2 were appealed and heard by the Board of Zoning

Appeals (BZA) on November 29, 2017, and January 10, 2018. The BZA upheld the Zoning Administrator's determination that these two homeowners were operating illegal STLs.

### **Stakeholder outreach**

Beginning in June of 2017, staff conducted extensive public outreach and solicited input on a potential amendment to the Zoning Ordinance using a variety of outreach tools. First, staff distributed an on-line survey from June through August of 2017 (which was promoted on the DPZ and general County websites, as well as in various newspapers and televised news reports). The survey generated 7,671 responses in total. Responses ranged from suggesting the County entirely prohibit STLs to suggesting the County allow unlimited STL use. The survey included a comment section where respondents could provide a summary of their concerns. The main concerns expressed included: impacts on the character of the neighborhood; introduction of commercial uses to residential areas; parking and increased traffic on local streets; safety and security in the neighborhood (particularly for children); noise and trash associated with rentals and events/parties; and the enforceability of any STL ordinance. The comments in favor of STLs noted that STLs generated additional income for homeowners, making homeownership more affordable; offered a cheaper and alternative rental option to hotels; provided opportunities for hosts to engage with travelers from other states and countries; and enhanced the County tax base. Proponents also shared their belief that lodgers are better stewards of a property than long-term renters and that County regulations should not infringe on what a homeowner does within a dwelling.

From the comments on the survey, staff identified a number of common areas of concern: character of the neighborhood, parking, trash, taxes, inspections/complaints, safety/security, noise/events, affordability of housing, and homeowner/condo association regulations. These topics became the basis for community meetings held throughout the County to discuss potential changes to the Zoning Ordinance. Four Countywide community meetings were held in the Community Centers in Reston, McLean, and Mount Vernon and at the Government Center. DPZ also held an open house.

In addition to the survey and community meetings, staff also participated in multiple individual meetings with residents, neighborhood and civic group representatives, homeowner and condominium association representatives, tourism-related professionals, realtors, the hotel industry, Airbnb representatives, and others. Staff has briefed the standing Zoning Ordinance Modernization (zMOD) Citizens Advisory Group, the Land Use Aides, and the Land Use Attorneys Group. Staff also developed a dedicated [website](#) for the amendment. The proposed regulations reflect consideration of all the input and feedback received from these various sources.

### **Analysis of other jurisdictions' regulations**

As a result of Virginia Code § 15.2-983, many jurisdictions throughout Virginia have been working toward amending their regulations regarding STLs. County staff participated in a multi-jurisdictional workgroup comprised of Fairfax County, Arlington County, City of Alexandria, Loudoun County, Tidewater area jurisdictions, the Virginia Association of Counties, and the Virginia Municipal League. Staff has also researched and reviewed the regulations of local jurisdictions in Virginia, as well as jurisdictions outside of Virginia. Brief descriptions of some of the regulations adopted by various jurisdictions are provided below with a more detailed summary table provided as Attachment C. While not exhaustive, it demonstrates the variety of regulatory mechanisms used throughout Virginia and the rest of the United States.



- *Arlington County, VA:*
  - Defines use as “Accessory Homestay”, a type of home occupation use
  - Requires primary residency (defined as living in unit a minimum of 185 days per year)
  - Can be operated by owner and renter
  - Maximum occupancy is limited to the larger of 6 guests or 2 guests/bedroom
  - All occupancy must comply with the applicable Building Code
  - Commercial uses such as parties, weddings, meetings, etc. are prohibited
  - Annual permit with a \$63 filing fee
  - Revocation of permit for 3 or more violations
  
- *Montgomery County, MD:*
  - Defines use as “Short-Term Residential Rentals”
  - Requires primary residency
  - Can be operated by owner or renter
  - Maximum occupancy is limited to 2 adults/bedroom and a maximum of 6 adults/unit
  - No limit on the number of rentals per year when operator is on-site
  - Limited to 90 days if the operator is not on-site
  - Must keep and make available a record of all overnight visitors
  - One off-street parking space per contract required or ad needs to prohibit vehicle parking
  
- *City & County of San Francisco, CA:*
  - Defines use as “Short Term Rentals”
  - Requires permanent residency (defined as living in unit at least 275 days/year)
  - Can be operated by owner or renter
  - Maximum occupancy is limited to 2 guests/unit
  - Requires registration with the Office of Short-Term Rental’s Registry
  - No limit on rentals when operator is on-site
  - Maximum of 90 days if operator is not on-site
  - Submittal of quarterly reports of rental activity required
  - Liability insurance >\$500,000 is required by owner or hosting platform
  - Registration is valid for two years with application fee of \$250

### **Current Zoning Ordinance Provisions**

Short-term lodging is not a currently defined use in the Zoning Ordinance; however, the use is understood to apply to the transient occupancy of a dwelling or a portion of a dwelling. Transient occupancy is also not currently defined in the Zoning Ordinance, but it is the Zoning Administrator’s longstanding determination that transient occupancy means occupancy for less than 30 days. This is now consistent with the definition of “short-term rental” in Virginia Code § 15.2-983. The Zoning Ordinance definition of “dwelling” prohibits transient occupancy:

*DWELLING: A building or portion thereof, but not a MOBILE HOME, designed or used for residential occupancy. The term ‘dwelling’ shall not be construed to mean a motel, rooming house, hospital, or other accommodation used for more or less transient occupancy”*  
(Emphasis added).

Zoning Ordinance Sect. 10-302, Par. 7 also limits transient occupancy. It allows “the letting for hire

of not more than two rooms for rooming or boarding use for not more than two persons, neither of whom is a transient.” Transient occupancy of a dwelling is currently only permitted as a Bed and Breakfast, which is a Category 5 Special Exception use permitted on residential properties located within the R-A through R-2, PDH, and PRC Zoning Districts. The only other form of transient occupancy permitted under the provisions of the Zoning Ordinance is hotel/motel uses, which are commercial uses that are not permitted in a dwelling.

## **Proposed Zoning Ordinance Amendments**

The proposed regulations are intended to allow limited STL operations, balancing the interests of residents in protecting the character of their neighborhoods with the interest of residents who want to operate STLs in their residences. In crafting the restrictions on STL use, staff took into consideration the particular concerns citizens and stakeholders voiced during the outreach process. A summary of how the proposed amendments specifically address these concerns follows.

### **Neighborhood character**

Staff received multiple comments during the public outreach efforts from residents who had concerns related to the impacts of STLs on the existing neighborhood character and residential feel of their community. Residents indicated that a neighborhood made up of owners or long-term tenants has a very different character than a neighborhood frequented by short-term or transient occupants who may not have a vested interest in maintaining the quality of life of their neighbors. Residents consistently expressed that they did not want investors acquiring multiple properties to operate full-time, hotel-type commercial uses within residential neighborhoods. Staff believe the ordinance addresses preserving neighborhood character in a number of ways:

- **Accessory use:** The proposed amendment adds Short-Term Lodging as a permitted accessory use in any zoning district that permits residential uses, and in any type of dwelling or in a mobile home, except that STLs may not be conducted in workforce or affordable housing units, detached accessory structures, accessory dwelling units, or temporary family health care structures. These excluded structures are specifically intended for other purposes, such as an on-site unit for an aged parent or a unit equipped for providing medical care to a family member. In the case of a detached accessory structure, staff believes the use of such structures for lodging purposes could easily convert these structures into permanent second dwelling units, which is not generally permitted. Staff believes the operation of STLs within the main structure of the principal building on the property will help limit the impacts of the use on surrounding properties.
- **Permanent residents as STL Operators:** STL uses are proposed to be operated by a permanent resident of a dwelling or mobile home to dispel the concern that non-resident operators could negatively impact neighborhood character by having little or no interaction with the community and by not being consistently present to address issues of community concern. Two forms of verification—like a driver’s license, vehicle registration, passport, or utility bill—are required to demonstrate permanent residency. This information will be reviewed and noted by staff at the time of application, but sensitive information will not be retained in the public records for security reasons.
- **Operator Presence/Authorized Agent:** Having the operator on-site may decrease the likelihood of issues arising with the STL use. Research and community input indicate, however, that many

STLs operate without the operator present, e.g., an owner may offer their home while away on vacation for a week. To address the absence concern, the proposed amendments require that the STL operator identify an Authorized Agent who will consent and agree to the proposed regulations and who will be available and responsible to address issues or emergencies in the absence of the STL Operator. *(The amendment has been advertised to also allow consideration of requiring the STL Operator to be on-site; and to require additional restrictions on the physical proximity and response time of the Authorized Agent to the STL. The requirement for the Authorized Agent is not contingent on operator presence.)*

- **Limitation on number of nights a STL use is permitted:** To keep the use truly accessory, staff proposes a maximum of 90 calendar days for STL use per year, or approximately 25% of a year. *(The amendment has been advertised to allow consideration of a maximum number of rental nights of up to 180 without an operator present or unlimited nights with an operator present.)*
- **Occupancy limitations:** The proposed amendment recommends not more than six adults per dwelling per night. This allows for families or groups of friends or colleagues to rent an STL and is consistent with other jurisdictions that have adopted provisions for an occupancy limit. Staff considered establishing a maximum number of persons per bedroom, but such a restriction would be virtually impossible to enforce, as it requires specific observation of the number of people in a bedroom. The Virginia Uniform Statewide Building Code further limits occupancy: as the proposed amendments reflect, it may impose stricter limits depending on the space being offered. *(The amendment is advertised to allow for any limit on occupancy, up to the maximums the Virginia Uniform Statewide Building Code imposes.)*
- **Limited contracts:** Staff propose restricting STL use to one contract; all persons lodging in the dwelling at one time must be associated with the same rental contract. This does not preclude a group of related/associated individuals from working out individual payment plans or having different durations of stay, but it will preclude the STL Operator from making the home available to multiple, unrelated/associated individuals, which would make the STL use more like a traditional hotel/motel. Additionally, parking, traffic on local streets, and the potential for negative interaction among lodgers are all issues that could be exacerbated by allowing multiple, unrelated groups or individuals to lodge at the same time. *(The amendment is advertised to allow flexibility to consider 1 to 5 contracts per night, with staff recommending one.)*

### **Safety**

Safety measures to protect lodgers are important, as they would not be particularly familiar with the layout or safety features of a dwelling/mobile home in the event of an emergency. The proposed amendments require that dwellings used for STLs meet all applicable requirements related to building code or manufactured home safety regulations. The age of the structure generally determines what provisions are applicable.

- **Sleeping rooms:** Converting basements or other non-traditional spaces to sleeping rooms requires compliance with the most current building code, which would require a second means of egress from the room, such as an emergency egress window in an existing basement.
- **Safety Equipment:** The amendment proposes that a working fire extinguisher, interconnected smoke detectors, and interconnected carbon monoxide detectors (if there is a fireplace and/or gas service is provided to the home) must be present in every dwelling offering STL use. If these features are not present in the home due to the age of the structure, they must be added before

beginning an STL operation.

- **Exit plan:** Like hotels, STLs must have an exit plan posted on the door to each bedroom or sleeping space to outline a pathway out of the home in the event of an emergency.

### **Commercial event use**

It is the Zoning Administrator's longstanding position that hosting events (e.g., parties, weddings, catered dinners) at a dwelling is prohibited except when the activity is directly hosted by the principal residents of the dwelling. For example, an owner could host a backyard wedding for their son or daughter, but could not make the property available as a wedding venue. The provisions prohibit all events and activities for persons other than authorized lodgers staying in the dwelling regardless of whether there is direct or indirect compensation for the event or activity.

### **Parking**

Citizens claimed STL users often park vehicles in reserved spaces, block access to driveways and mailboxes, or use all the available public parking. In evaluating whether the ordinance should therefore require STL operators to provide parking, staff considered that home child care, home offices, and a variety of other home occupations are currently permitted under the Zoning Ordinance without a requirement for an additional off-street parking space. Staff also recognized that many visitors may opt to use public transport, taxis or ride-sharing services and would not need a parking space. In addition, staff could not draft the ordinance to place a blanket limitation on otherwise publicly available parking. Furthermore, most existing developments already have in place or have the ability to manage parking located on private streets and parking garages within the developments. Lastly, none of the other Virginia jurisdictions that specifically provide for short-term lodging uses in their regulations require that STL operators provide parking. Accordingly, staff does not currently believe a designated parking space is warranted.

To ensure that parking is managed appropriately, however, the amendment proposes to require all advertisements for STLs to indicate if and where on-site parking is available for the dwelling offering STL. If there is no on-site parking available, the advertisements must so state. This information will help lodgers manage their expectations and plan for their transportation needs. *(The amendment is advertised to allow flexibility to consider requiring 1 to 2 off-street parking spaces per contract, with staff recommending none.)*

### **Impact on Property Owners Associations**

Staff understands the concerns of communities who, collectively, do not want STL operations in their development. However, Virginia Code § 15.2-110 prohibits the County from requiring consent from an HOA/COA prior to the issuance of any permit, certificate or license. HOA/COA covenants, bylaws and other regulations remain intact, even when a Zoning Ordinance has been amended, so if there is a current provision in an association's documents that would restrict the use of any homes for STL purposes, the proposed amendments will not negate those restrictions. The proposed amendments expressly state that they do not abrogate, nullify or invalidate any provisions applicable to the structure or use of the property. The STL operator is therefore on notice that his or her STL operation must comply with any restrictive covenants on his or her property.

### **Enforcement**

Because this is a use that operates within a home, enforcement will pose difficulties particularly regarding the 90-night limit and 6-lodger limitations. Staff believes the proposed regulations have been crafted in a way to minimize (but not eliminate) enforcement challenges. The following tools and requirements will assist compliance staff with complaint investigations:

- **Permit:** STL operations will require a permit issued by the Zoning Administrator and valid for a period of two years. Home occupation uses generally require only an initial permit; however, staff believes requiring permit renewal will ensure STLs are operating in conformance with the use limitations. To help the Code Compliance Inspectors determine which STLs may be illegally operating, STL Operators will be required to include their permit number in their online listings. The Zoning Administrator may revoke a permit for failure to comply with the STL regulations. *(Advertised to allow a one- or two-year period of permit validity.)*
- **Guest Log:** STL Operators must maintain a record of lodgers and lodgers' contact information, and make available upon request to appropriate County staff. This will help staff ensure compliance with the limitations on number of nights of use and occupancy, as well as allow staff to contact lodgers if that becomes necessary during a complaint investigation.
- **Owner Consent:** The proposed amendment requires consent of the property owner if the STL Operator is a long-term tenant. Because property owners are ultimately responsible for any violations occurring on property they own and for any fines or penalties associated with those violations, staff considers this a critical requirement.
- **Outside Consultant:** To enhance enforcement efforts, staff proposes to use the services of an outside consultant. Other Virginia jurisdictions have contracted with Host Compliance LLC, which can track the exact address and rental activity of STLs across multiple online platforms, as well as provide screenshots of listings and contact information for operators. The County can enter into a purchase order based on the existing contract with the other Virginia jurisdictions for the next year or two.
- **Inspection:** Oftentimes, the biggest hurdle for DCC is the inability to gain access to a property to investigate a complaint of noncompliance. The proposed provisions are intended to eliminate that hurdle by requiring STL Operators to consent to inspection by County personnel during reasonable hours.

### **Changes and Additions to Ordinance Definitions**

As noted, the Zoning Ordinance currently does not define transient occupancy or STL. The proposed regulations will introduce these as new definitions and will modify the "Dwelling" and "Dwelling, Mobile Home" definitions in Chapter 20 to accommodate the STL use. In addition, the proposed amendments introduce and define the STL-use specific terms "Authorized Agent," "Permanent Resident," and "Short-Term Lodging Operator," which apply only to STL use provisions.

### **Proposed Fees**

Virginia Code § 15.2-2286(A)(6) provides that a Zoning Ordinance may include reasonable provisions for the collection of fees to cover the costs of making inspections, issuing permits, advertising notices, and other expenses incident to its administration. To keep fees in line with other permits/certifications staff proposes a \$200/2-year permit application fee for STLs.

As part of this amendment, staff also proposes to reduce the special exception application fee for Bed and Breakfast use by 50%, from \$16,375 to \$8,180, but will advertise a fee ranging from \$4,085 to the current fee of \$16,375. Staff believes the high application fee may account for the fact that there are no approved Bed and Breakfasts currently operating in the County. The only Bed and Breakfast approved in the last two decades ceased operating. Unlike the STLs, Bed and Breakfasts may be operated by non-permanent residents and may be operated year-round. Staff believes that the Bed and Breakfast provisions may offer an additional business opportunity for some of the County's lodging entrepreneurs. No other changes are proposed to the Bed and Breakfast provisions regarding their location and other use limitations.

### **Fiscal Impacts and Tax Provisions of the County Code**

The operation of STL in the County constitutes a transient occupancy use that is subject to a Transient Occupancy Tax or TOT. It is estimated that there are approximately 1,500 active listings in the County based on research and specific data provided by a third-party data collection company who provided information related to Airbnb listings. Airbnb representatives have confirmed this approximate number. The estimates obtained from the third-party data collection company also indicate that the average days of rental in the County are 64 days and the average income per night for the STL Operator is \$72. Using these average assumptions of 64 rentals per year per STL Operator and a \$72 per night, staff estimates collecting \$428,268 in annual Transient Occupancy Tax (TOT) revenue. The total TOT in Fairfax County is calculated at the rate of 6 percent (2 percent for general transient occupancy tax + 2 percent for tourism + 2 percent for regional transportation) on the gross room rental charged for overnight stays related to transient occupancy. As required by state legislation, of the revenue generated by the 2 percent for tourism, one quarter is designated to the Fairfax County Convention and Visitors' Center, and the rest is used by the County to promote tourism. As a result, of the total projected \$428,268, \$142,756 will be allocated for regional transportation, \$35,689 to Fairfax County Convention and Visitors' Center, and \$249,823 to the County's General Fund. Additionally, based on the proposed \$200 STL permit fee, estimated revenue of approximately \$150,000 could be generated annually.

Given these average rental night and rate figures, the revenue from the Business, Professional, and Occupations License tax (BPOL) is not likely to result in meaningful revenue, since gross receipts under \$100,000 per year are subject to a license/tax of \$50 or less and in instances of revenue of less than \$10,000 the BPOL is zero. The average annual income for an STL host is estimated at less than \$5,000 per year, and BPOL is not applicable at this level. As such, staff does not believe that a significant amount of income will be derived from the BPOL.

This amendment includes a companion amendment to Chapter 4 of the County Code. Those changes are set forth and described in Attachment D.

### **Implementation of Proposed Changes**

Staff is developing an implementation plan to assist with the smooth initiation of the STL permit process. While not part of the Zoning Ordinance text, a new permit application form and STL permit will be developed in conjunction with this amendment. If the proposed amendment is adopted, staff is considering sending notification letters to the owners of addresses identified by the third-party

data collection company as currently advertising the availability of an STL in the County. Such notice would provide the new regulations and advise of the permit requirement and process. Staff also believes that the volume of potential STL applications that could be received warrants a delayed implementation to allow operators to obtain approval. This is similar to the grace period that was granted when the home child care amendment was adopted, in which existing operators were given a period of time to come into compliance by obtaining the require approval. Delayed implementation is also warranted because of the change in TOT remittance from a quarterly option to a monthly requirement. This change will impact current hotel operators as well as the new STLs and a delayed implementation will allow those hotels that currently remit the tax on a quarterly basis time to prepare for a monthly remittance process. Staff is recommending an effective date of October 1, 2018, which is the first day after the July quarter.

The proposed regulations are intended to achieve a balance between allowing STLs while maintaining the overall character of residential neighborhoods. As such, staff recommends approval of the proposed amendments with an effective date of 12:01 a.m. on the day following adoption, provided, however that STL Operators will have a grace period of between 90 and 120 days from the date of adoption to obtain approval of an STL permit.

## **Conclusion**

The changes staff propose are intended to facilitate a limited STL use for the County's entrepreneurs, while preserving the character of the County's communities and safety of its residents. Because STL regulation is relatively new, not only in Fairfax County but nationwide, staff believe it appropriate to revisit these regulations in eighteen months and make any necessary regulatory changes. This, of course, does not limit the Board's ability to revisit this amendment sooner, should it see fit to do so.

### **Attachments:**

- A. Proposed Zoning Ordinance Amendments
- B. Virginia Code § 15.2-983
- C. Summary Table of Other Jurisdictions' Regulations
- D. Amendment to Chapter 4 of the County Code

## ATTACHMENT A

## PROPOSED AMENDMENT

*This proposed Zoning Ordinance amendment is based on the Zoning Ordinance in effect as of March 20, 2018. There may be other proposed amendments that could affect some of the numbering, order or text arrangement of the paragraphs or sections set forth in this amendment. If any such other amendment is adopted before this amendment, any necessary renumbering or editorial revisions will be administratively incorporated by the Clerk in the printed version of this amendment following Board adoption.*

1 Amend Article 20, Ordinance Structure, Interpretations and Definitions, Part 3, Definitions, by  
2 revising the current definition of DWELLING and DWELLING, MOBILE HOME and to add  
3 new definitions for SHORT-TERM LODGING and TRANSIENT OCCUPANCY to read as  
4 follows:

5  
6 DWELLING: A building or portion thereof, but not a MOBILE HOME, designed or used for  
7 residential occupancy. The term 'dwelling' ~~shall not be construed to~~ does not mean a motel, rooming  
8 house, hospital, or other accommodation used for more or less ~~transient occupancy~~ TRANSIENT  
9 OCCUPANCY, except a dwelling may be used for SHORT-TERM LODGING.

10  
11 DWELLING, MOBILE HOME: A single family residential unit with all of the following  
12 characteristics: (a) designed for long-term occupancy, and containing sleeping accommodations, a  
13 flush toilet, a tub or shower bath and kitchen facilities with plumbing and electrical connections  
14 provided for attachment to outside systems; (b) designed to be transported after fabrication on its own  
15 wheels or on a flat bed or other trailer or detachable wheels; (c) arriving at the site where it is to be  
16 occupied as a dwelling complete, conventionally designed to include major appliance, and ready for  
17 occupancy except for minor and incidental unpacking and assembly operations, location on foundation  
18 supports, connection to utilities, and the like; (d) designed for removal to and installation or erection  
19 on other sites.

20  
21 A mobile home may include one (1) or more units, separately towable, which when joined  
22 together shall have the characteristics as described above. For the purposes of this Ordinance, a mobile  
23 home shall not be deemed a SINGLE FAMILY DETACHED DWELLING. A MOBILE HOME does  
24 not include TRANSIENT OCCUPANCY, except a mobile home may be used for SHORT-TERM  
25 LODGING.

26  
27 SHORT-TERM LODGING: The provision of a room or space that is suitable or intended for transient  
28 occupancy, in exchange for a charge for the lodging. Such use does not include ACCESSORY  
29 DWELLING UNIT, BED AND BREAKFAST, HOTEL/MOTEL, or TEMPORARY FAMILY  
30 HEALTH CARE STRUCTURE.



1 TRANSIENT OCCUPANCY: Use of a DWELLING or MOBILE HOME, or part thereof, for sleeping  
 2 or lodging purposes for fewer than 30 consecutive nights.

4 **Amend Article 10, Accessory Uses, Accessory Service Uses and Home Occupations, as follows:**

- 6 - **Amend Sect. 10-102, Permitted Accessory Uses by revising the lead-in paragraph and adding a new Par. 35, as follows:**

9 Accessory uses and structures ~~shall~~ may include, but are not limited to, the following uses and  
 10 structures; ~~provided that~~ any such use or structure ~~shall~~ must be in accordance with the definition  
 11 of Accessory Use contained in Article 20.

13 35. Short-Term Lodging, limited by the provisions of Sect. 105 below.

- 15 - **Add a new Sect. 10-105, Short-Term Lodging, to read as follows:**

17 **10-105 Short-Term Lodging**

19 Short-Term Lodging, as defined in Article 20, is permitted in a dwelling or mobile  
 20 home only upon the Zoning Administrator's issuance of a permit and is subject to the  
 21 following limitations:

23 1. For the purposes of this section, the following definitions apply:

25 A. Authorized Agent: an adult designated by a Short-Term Lodging Operator who  
 26 consents to be available to address issues or emergencies that may arise during  
 27 any Short-Term Lodging stay.

29 B. Permanent Resident: a person who occupies or intends to occupy a dwelling or  
 30 mobile home for at least 185 days out of the calendar year for the purposes of  
 31 establishing the dwelling or mobile home as that person's primary residence. A  
 32 person may have only one permanent residence.

34 C. Short-Term Lodging Operator: an owner or tenant of a property who offers that  
 35 property for Short-Term Lodging.

37 2. A dwelling or mobile home used for Short-Term Lodging must:

39 A. Be open, upon request, for inspection by County personnel during reasonable  
 40 hours; and

42 B. Comply with the requirements of the applicable version of the Virginia Uniform  
 43 Statewide Building or Virginia Manufactured Home Safety Regulations, as  
 44 determined by the Building Official; and

C. Have a working multi-purpose fire extinguisher and interconnected smoke detectors and carbon monoxide detectors (when required for a fireplace or gas service); and

D. Have a plan posted inside the door to each sleeping room showing the exit pathway from the sleeping room to the nearest exit from the dwelling or mobile home.

3. A Short-Term Lodging Operator must:

A. Be a permanent resident of the property hosting the Short-Term Lodging Use. Permanent residency must be demonstrated at the time of application for a permit to operate Short-Term Lodging; and

B. Obtain written consent from the owner of the property for the Short-Term Lodging Use; and

C. Assume responsibility for determining whether any regulations, prohibitions, and covenants applicable to the dwelling or mobile home prohibit Short-Term Lodging; and

D. Designate at least one person who consents to serve as an Authorized Agent for the Short-Term Lodging Operator. Contact information (name, address, telephone, and email address) for the Authorized Agent(s) must be provided on the application for a Short-Term Lodging permit, posted in a prominent location within the area made available for Short-Term Lodging, and provided in any written material given to lodgers during their overnight stay. *[Additionally advertised to allow the Board to require the Short-Term Lodging Operator to be present during any rental for transient occupancy; or to establish additional requirements related to the Authorized Agent's physical proximity and response time to any issues or emergencies that may arise at the STL when the Operator is not present.]*

4. The Short-Term Lodging Use is subject to the following use limitations:

A. A dwelling or mobile home may be used for Short-Term Lodging for no more than 90 nights per calendar year. *[Advertised to permit the Board to consider a maximum of 180 nights per year that a dwelling/mobile home could be used as an STL. Additionally, the advertisement allows the Board to consider any number of nights in which the STL Operator must to be present during an STL rental from 0 to 180 per year.]*

B. The maximum number of lodgers per night may not exceed 6 adults, except where the Virginia Uniform Statewide Building Code allows fewer occupants. *[Advertised to permit the Board to consider any occupancy limit up to an*

*unlimited number of people, except as limited by the Virginia Uniform Statewide Building Code.]*

- C. All lodgers occupying a Short-Term Lodging must be associated with the same rental contract. The maximum number of rental contracts per night is one. [Advertised to permit the Board to consider a range on the number of contracts per night from 1 to 5.]
- D. Events and activities—including luncheons, banquets, parties, weddings, meetings, fund raising, commercial or advertising activities, and any other gathering of persons other than the authorized lodgers, whether for direct or indirect compensation—are prohibited in association with any Short-Term Lodging.
- E. All advertisements for Short-Term Lodging, posted on any platform online or in any other format, must (i) include the Short-Term Lodging permit number and (ii) identify where lodgers can legally park or state that parking is not available. [Advertised to allow the Board to consider requiring 1 to 2 parking space per contract, with staff recommending none.]
- F. A Short-Term Lodging Operator must maintain a guest log including the name, address and telephone number of all overnight lodgers. The guest log must be made available upon request to any County employee or agent tasked with enforcing the Zoning Ordinance or other applicable part of the County Code.
- G. Short-Term Lodging is prohibited in a detached accessory structure, accessory dwelling unit, temporary family health care structure, affordable dwelling unit or workforce dwelling unit.
- H. The Zoning Administrator's issuance of a permit does not abrogate, nullify, or invalidate any other provision of federal, state, or local law; any restrictive covenant; or any property owners association by-law.

#### 5. Permit Required

- A. An application for a Short-Term Lodging permit must be submitted to the Zoning Administrator on a form furnished by the County along with a filing fee of \$200.
- B. The permit will be valid for two years from the date of issuance. [Advertised to allow the Board to consider any permit fee from \$50 to \$250 and a range of permit validity from 1 to 2 years.]
- C. A permit for Short-Term Lodging may be revoked by the Zoning Administrator because of the failure of the Short-Term Lodging Operator to comply with all applicable regulations set forth in this Section or elsewhere in the Zoning

Ordinance. The Zoning Administrator will give notice of any such revocation by letter to the Short-Term Lodging Operator and the property owner, where applicable, setting forth the grounds upon which the permit was revoked, the date and time when the revocation is effective, and the appeals procedure. These provisions do not preclude the Zoning Administrator's use of any other remedy prescribed by law with respect to violations of this Ordinance.

**Amend Article 18, Administration, Amendments, Violations and Penalties, by amending Part 1, Administration, Sect. 106, Application and Zoning Compliance Letter Fees, to modify the Category 5 Special Exception fees in Par. 1, and to amend Par. 5, as follows:**

1. Application for a variance, appeal, special permit or special exception:

Category 5 special exception	<del>\$16375</del>
------------------------------	--------------------

- Bed and Breakfast ~~\$8180.~~ *[Advertised to permit the Board to consider any application fee from \$4085 to \$16375.]*

- All other uses ~~\$16375~~

5. Fees for food trucks, small cell facilities, home occupations, short-term lodging, sign permits and site plans shall be as specified in Articles 2, 10, 12 and 17, ~~respectively~~ as applicable.

**§ 15.2-983. Creation of registry for short-term rental of property.**

*A. As used in this section:*

*"Operator" means the proprietor of any dwelling, lodging, or sleeping accommodations offered as a short-term rental, whether in the capacity of owner, lessee, sublessee, mortgagee in possession, licensee, or any other possessory capacity.*

*"Short-term rental" means the provision of a room or space that is suitable or intended for occupancy for dwelling, sleeping, or lodging purposes, for a period of fewer than 30 consecutive days, in exchange for a charge for the occupancy.*

*B. 1. Notwithstanding any other provision of law, general or special, any locality may, by ordinance, establish a short-term rental registry and require operators within the locality to register annually. The registration shall be ministerial in nature and shall require the operator to provide the complete name of the operator and the address of each property in the locality offered for short-term rental by the operator. A locality may charge a reasonable fee for such registration related to the actual costs of establishing and maintaining the registry.*

*2. No ordinance shall require a person to register pursuant to this section if such person is (i) licensed by the Real Estate Board or is a property owner who is represented by a real estate licensee; (ii) registered pursuant to the Virginia Real Estate Time-Share Act (§ 55-360 et seq.); (iii) licensed or registered with the Department of Health, related to the provision of room or space for lodging; or (iv) licensed or registered with the locality, related to the rental or management of real property, including licensed real estate professionals, hotels, motels, campgrounds, and bed and breakfast establishments.*

*C. 1. If a locality adopts a registry ordinance pursuant to this section, such ordinance may include a penalty not to exceed \$500 per violation for an operator required to register who offers for short-term rental a property that is not registered with the locality. Such ordinance may provide that unless and until an operator pays the penalty and registers such property, the operator may not continue to offer such property for short-term rental. Upon repeated violations of a registry ordinance as it relates to a specific property, an operator may be prohibited from registering and offering that property for short-term rental.*

*2. Such ordinance may further provide that an operator required to register may be prohibited from offering a specific property for short-term rental in the locality upon multiple violations on more than three occasions of applicable state and local laws, ordinances, and regulations, as they relate to the short-term rental.*

*D. Except as provided in this section, nothing herein shall be construed to prohibit, limit, or otherwise supersede existing local authority to regulate the short-term rental of property through general land use and zoning authority. Nothing in this section shall be construed to supersede or limit contracts or agreements between or among individuals or private entities related to the use of real property, including recorded declarations and covenants, the provisions of condominium instruments of a condominium created pursuant to the Condominium Act (§ 55-79.39 et seq.), the declaration of a common interest community as defined in § 55-528, the cooperative instruments of a cooperative created pursuant to the Virginia Real Estate Cooperative Act (§ 55-424 et seq.), or any declaration of a property owners' association created pursuant to the Property Owners' Association Act (§ 55-508 et seq.).*

## SUMMARY TABLE OF OTHER JURISDICTIONS' REGULATIONS

Jurisdiction	Arlington County, VA	Town of Blacksburg, VA
<b>Definitions</b>	<p><b>Accessory Homestay:</b> A home occupation in which an owner(s) or tenant(s) of a dwelling unit who uses such dwelling unit as his/her primary residence, rents to a lodger, either such dwelling unit, or any portion thereof.</p> <p><b>Responsible party:</b> The owner or tenant, or an individual or business entity designated by the owner or tenant, of a dwelling unit in which an accessory homestay is permitted, who is available 24 hours a day, 7 days a week to respond to and resolve issues and complaints that arise during all times in which the dwelling unit is being used for an accessory homestay, so that a reasonably prompt, in-person response can be made at the accessory homestay when necessary.</p>	<p><b>Homestay:</b> accessory or secondary use of a residential dwelling unit or a portion thereof by a host to provide room or space that is intended for a short term transient rental purposes in exchange for a charge for the occupancy. The primary use of the homestay unit shall remain residential. For each booking transaction, all applicable taxes must be collected and remitted to the town as required by Chapter 22 by either the host or the associated hosting platform. Such accessory or secondary use shall not create a landlord/tenant relationship.</p>
<b>Primary residency</b>	Required and established with minimum of 185 days/year	Required
<b>Tenancy of operator</b>	Both owners and renters can participate provided primary residency is established	Only owner that lives at the homestay can participate provided primary residency is established
<b>Authorized Agent</b>	Required	N/A (during each stay, a principal guest is required to be designated as the contact person to respond to issues at the unit)
<b>Guest Log</b>		N/A
<b>Allowable dwelling type</b>	All dwelling types	All dwelling types
<b>Life safety measures</b>	Smoke detectors, fire extinguishers and carbon monoxide detectors (where applicable) required	Smoke and carbon monoxide detectors in all sleeping areas, in every room in the path of the means of egress from sleeping area and in each story including basements and second means of egress in each sleeping area required

Not an exhaustive list of regulations

<b>Jurisdiction</b>	<b>Arlington County, VA</b>	<b>Town of Blacksburg, VA</b>
<b>Permit type</b>	Annually renewable Accessory Homestay Permit (revocable for 3 or more violations, non-compliance or failure to allow inspections) and a business license	Annually renewable Homestay Permit (only one permit per host allowed) and revocable for 3 or more substantiated complaints, non-compliance and failure to allow inspections
<b>Application fee</b>	\$63 (permit fee)	N/A
<b>TOT remittance</b>	Required	Required
<b>Limit on # of days per year</b>	N/A	Type A: 90 days/year with host present Type B: 30 days out of 90 days total without host present
<b>Events &amp; commercial activities</b>	Prohibited	N/A
<b>Limit on # of contracts per day</b>	One/night	N/A
<b>Limit on # of bedrooms available for rent per day</b>	Determined by limits on occupants	Type A: 2 bedrooms maximum Type B: No limit
<b>Limit on occupancy</b>	Larger of either 6 guests or 2 guests/bedroom (not to exceed that allowed by Building Code)	No more than 6 guests total per night per unit
<b>Adjacent property notification</b>	N/A	Required
<b>Parking</b>	N/A	N/A
<b>Include license/permit number on advertisement</b>	N/A	N/A

<b>Jurisdiction</b>	<b>City of Charlottesville, VA</b>	<b>Montgomery County, MD</b>
<b>Definitions</b>	<p><b>Bed and Breakfast (Homestay):</b> a temporary lodging facility operated within a single family residence which is owner occupied and managed; having no more than two (2) guest rooms; and wherein food service shall be limited to breakfast and light fare for guests only.</p> <p><b>Responsible Party:</b> Individual or business entity located within 30 miles who will be available 24 hours a day, 7 days a week, to respond to resolve issues and complaints (in person, if necessary) that arise during the period of time in which the dwelling is being used as a homestay.</p>	<p><b>Short-Term Residential Rental:</b> the residential occupancy of a dwelling unit for a fee for less than 30 consecutive days. Short-Term Residential Rental is not a Bed and Breakfast (record of all overnight visitors must be maintained and readily available for inspection)</p>
<b>Primary residency</b>	Required and established with minimum of 180 days/year	Required
<b>Tenancy of operator</b>	Owner or resident manager provided primary residency is established	Both owners and owner-authorized residents can participate provided primary residency is established
<b>Authorized Agent</b>	Responsible party located not more than 30 miles from rental unit required	Required when primary resident is not present and must reside within 15 miles of the unit (contact information of authorized agent must be posted inside the unit along with rules and regulations)
<b>Guest Log</b>	N/A	Record of all overnight visitors required to be maintained and be readily available for inspection
<b>Allowable dwelling type</b>	All dwelling types	Prohibited in a Farm Tenant Dwelling or on a site that includes an Accessory Apartment
<b>Life safety measures</b>	Working smoke and carbon monoxide detectors and fire extinguishers required	Working smoke and carbon monoxide detectors and fire extinguishers required



<b>Jurisdiction</b>	<b>City of Charlottesville, VA</b>	<b>Montgomery County, MD</b>
<b>Permit type</b>	Annually renewable Home Occupation Provisional Use Permit / Homestay (revocable for 3 or more substantiated complaints within a calendar year)	Annually renewable license
<b>Application fee</b>	\$100 permit fee	\$44 (license fee)
<b>TOT remittance</b>	Required	Required
<b>Limit on # of days per year</b>	14 days in any 30-day period	No limit with host present 120 days/year without host present
<b>Events &amp; commercial activities</b>	N/A	N/A
<b>Limit on # of contracts per day</b>	N/A	N/A
<b>Limit on # of bedrooms available for rent per day</b>	N/A	N/A
<b>Limit on occupancy</b>	No more than 6 adults per night per tax map parcel	2 adults (over 18 years old) per bedroom, and a maximum of 6 adults per night per unit
<b>Adjacent property notification</b>	N/A	Required
<b>Parking</b>	N/A	One off-street parking space per contract unless the online listing indicates that vehicle parking is prohibited
<b>Include license/permit number on advertisement</b>	N/A	Required

Jurisdiction	City of Santa Monica CA	City & County of San Francisco CA
Definitions	<p><b>Short-Term Rental:</b> Any rental of any living accommodation that is 30 consecutive days or less, including hotels, motels, bed and breakfasts, home- sharing and vacation rentals.</p> <p><b>Home-Sharing:</b> The rental of a person’s private residence while the primary occupant is present during the rental and whereby the person is hosting the visitor. PERMITTED CITYWIDE.</p> <p><b>Vacation Rental:</b> The exclusive rental of a private residence for transient use. In such cases the resident is either not present or there is no full time resident that lives in the unit. PROHIBITED CITYWIDE.</p>	<p><b>Short-Term Residential Rental:</b> A Tourist or Transient Use where all of the following conditions are met:</p> <p>(a) the Residential Unit is offered for Tourist or Transient Use by the Permanent Resident of the Residential Unit;</p> <p>(b) the Permanent Resident is a natural person;</p> <p>(c) the Permanent Resident has registered the Residential Unit and maintains good standing on the Department's Short-Term Residential Rental Registry; and</p> <p>(d) the Residential Unit: is not subject to the Inclusionary Affordable Housing Program.</p>
Primary residency	Required (a host may not have more than one residence within the city of Santa Monica)	Required and established with minimum of 275 days/year (new residents must have occupied the unit for at least 60 consecutive days prior to application.)
Tenancy of operator	Both owners and renters can participate provided primary residency is established	Both owners and renters can participate provided primary residency is established
Authorized Agent	N/A (operator required to be on-site at all times)	N/A
Guest Log	N/A	N/A
Allowable dwelling type	All dwelling types except Rent Control Bootleg Units	All dwelling types where residential use is permitted except in RV, Camper Vans, temporary structures, commercial or industrial buildings
Life safety measures	Emergency exist route information required to be provided	Unit must not have any outstanding Planning, Building, Housing, Fire, Health, Police, or other applicable City code violations

<b>Jurisdiction</b>	<b>City of Santa Monica CA</b>	<b>City &amp; County of San Francisco CA</b>
<b>Permit type</b>	Home-Sharing Permit and business license	Registration and Certifications as a Host by the Office of STR every two years (submittal of a quarterly report affirming compliance required)
<b>Application fee</b>	N/A (only business license fee applies)	\$250 every two years
<b>TOT remittance</b>	Required	Required.
<b>Limit on # of days per year</b>	No limit when host present. Not permitted without host present.	No limit with host present 90 days/year without host present
<b>Events &amp; commercial activities</b>	Prohibited	Prohibited
<b>Limit on # of contracts per day</b>	N/A	Maximum of five/night
<b>Limit on # of bedrooms available for rent per day</b>	N/A	N/A
<b>Limit on occupancy</b>	N/A	Not more than 5 guests per unit
<b>Adjacent property notification</b>	N/A	N/A
<b>Parking</b>	N/A	N/A
<b>Include license/permit number on advertisement</b>	Required	Required

1                                   **AN ORDINANCE AMENDING**  
2                   **ARTICLES 7.2 AND 13 OF CHAPTER 4 OF THE FAIRFAX COUNTY CODE,**  
3                   **RELATING TO BUSINESS, PROFESSIONAL AND OCCUPATIONAL LICENSE TAX**  
4                   **AND TRANSIENT OCCUPANCY TAX**

5  
6                                   **Draft of February 16, 2018**

7  
8                   **AN ORDINANCE** to amend the Fairfax County Code by amending and  
9                   readopting Sections 4-7.2-25, 4-13-1, 4-13-2 and 4-13-5, relating to  
10                  Business, Professional and Occupational License Tax and Transient  
11                  Occupancy Tax.  
12

13   **Be it ordained by the Board of Supervisors of Fairfax County:**

14           **1. That Sections 4-7.2-25, 4-13-1, 4-13-2 and 4-13-5 are amended and readopted as**  
15           **follows:**

16                               **Article 7.2 – Business, Professional and Occupational License Tax.**

17   **Section 4-7.2-25. – Hotels and motels; license tax rate.**

18           Every person operating a hotel-~~or motel~~ as defined in Section ~~4-13-1~~ ~~4-17-1~~ of the Fairfax  
19   County Code or similar business which rents rooms or space to transients shall pay an annual  
20   business license tax of Twenty-six Cents for each One Hundred Dollars of gross receipts.

21                               **Article 13. – Transient Occupancy Tax.**

22  
23   **Section 4-13-1. -Definitions.**

24           The following words and phrases when used in this Article shall, for the purposes of this  
25   Article, have the meanings respectively ascribed to them in this Section, except in those instances  
26   where the context clearly indicates a different meaning:

27           *County* means the County of Fairfax, Virginia.

28           *Director* means Director of the Department of Tax Administration or any of duly authorized  
29   deputies or agents of the Director.

30           *Hotel* means any public or private hotel, inn, apartment hotel, hostelry, tourist home or house,  
31   motel, rooming house, any place that offers Short-Term Lodging as defined in Article 20, Part 3  
32   of the Fairfax County Zoning Ordinance, or other lodging place within the County offering lodging  
33   for ~~one~~~~four~~ or more persons at any one time, and the owner and operator thereof, who, for  
34   compensation, furnishes lodging to any transients as hereinafter defined.

1        *Person* means individuals, firms, partnerships, associations, corporations, persons acting in  
2 representative capacity and combinations of individuals of whatever form and character.

3        *Room rental* means the total charge made by any such hotel for lodging and/or space furnished  
4 any such transient. If the charge made by such hotel to such transient includes any charge for  
5 services or accommodations in addition to that of lodging and/or the use of space, then such portion  
6 of the total charge as represents only room and/or space rental shall be distinctly set out and billed  
7 to such transient by such hotel as a separate item.

8        *Transient* means any person who, for any period of ~~less~~~~not more~~ than thirty consecutive days  
9 either at his own expense or at the expense of another, obtains lodging or the use of any space in  
10 any hotel as hereinabove defined, for which lodging or use of space a charge is made.

11        **Section 4-13-2. – Levy; amount of tax.**

12        ~~(a)A-~~ Pursuant to Virginia Code § 58.1-3819, in addition to all other taxes, there is hereby  
13 imposed and levied on each and every transient a tax equivalent to two percent of the total amount  
14 paid for room rental by or for any such transient to any hotel; provided however, that the tax  
15 imposed by this subsection shall not be imposed on any transient occupancy in any hotel that is  
16 located within any town that has imposed a tax on transient occupancy.

17  
18        ~~(b)B-~~ Pursuant to Virginia Code § 58.1-3824, and in addition to the tax imposed by subsection  
19 A of this Section, in addition to all other taxes, there is hereby imposed and levied on each and  
20 every transient a tax equivalent to two percent of the total amount paid for room rental by or for  
21 any such transient to any hotel regardless of whether the hotel is located within any town that has  
22 imposed a tax on transient occupancy. The tax imposed pursuant to this subsection shall be  
23 collected and appropriated for those purposes set forth in ~~Virginia Code § 58.1-3825~~ Virginia  
24 Code § 58.1-3824.

25  
26        **Section 4-13-5. - Report and remittance of tax.**

27        (a) The person collecting any such tax shall make out a report on such forms and setting forth  
28 such information as the Director may prescribe and require, showing the amount of room rental  
29 charges collected, and the tax required to be collected, and shall sign and deliver the same to the  
30 Director with a remittance of such tax.

31  
32        (b) Such reports and remittances shall be made monthly on or before the last day of the month  
33 ~~following each quarter~~ and covering the amount of tax collected during the preceding  
34 ~~month. quarter. Such quarterly reports and remittances shall be made on or before the last day of~~  
35 ~~April, July, October and January in each year.~~ If the remittance is by check or money order, it  
36 shall be payable to the County and all remittances received hereunder by the Director shall be  
37 promptly delivered to the Director of the Department of Finance. ~~Any person operating a hotel~~  
38 ~~may make reports and remittances on a monthly basis in lieu of the quarterly basis hereinbefore~~  
39 ~~provided.~~

40  
41        **2. That the provisions of this ordinance are severable, and if any provision of this**  
42 **ordinance or any application thereof is held invalid, that invalidity shall not affect the other**

1 provisions or applications of this ordinance that can be given effect without the invalid  
2 provision or application.  
3

4 **3. That this Ordinance will become effective on October 1, 2018.**  
5

6  
7 GIVEN under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 2018  
8

9 \_\_\_\_\_  
10 Clerk to the Board of Supervisors  
11